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The EDITH *and* LORNE PIERCE
COLLECTION *of* CANADIANA



Queen's University at Kingston

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THE
DISTRICT MUNICIPAL COUNCIL ACT,
DIVISION COURT ACT,
IMPORT DUTIES ACT,
COMMON SCHOOL ACT,
AND
SCHOOL LANDS ACT.



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DISTRICT MUNICIPAL COUNCIL ACT.

AN ACT,

To provide for the better internal Government of that part of this Province which formerly constituted the Province of Upper Canada, by the establishment of Local or Municipal Authorities therein.

[Passed 27th August, 1841.]

WHEREAS for the better protection and management of the local interests of Her Majesty's subjects, in that part of this Province which formerly constituted the Province of Upper Canada, it is expedient that municipal authorities be established in the several Districts of that portion of the Province: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That the inhabitants of each of the Districts in that part of this Province, which formerly constituted the Province of Upper Canada, and of each and every District which may be hereafter established in that portion of this Province, in the manner by law provided, shall upon, from and after, the first Monday in January in the year of our Lord, one thousand eight hundred and forty-two, be a Body Corporate, and as such shall have perpetual succession, and a Common Seal, with power to break, renew, and alter the same at pleasure, and shall be capable in Law, of suing and being sued, and of purchasing and holding lands and tenements, situate within the limits of such District, for the use of the said inhabitants, and of making and entering into such contracts and agreements as may be necessary for the exercise of their corporate functions; and that the powers aforesaid shall be exercised by and through, and in the name of the Council of every such District respectively.

The inhabitants of each District in U. C. to be a body corporate after 1st January, 1842.

Corporate powers.

II. *Provided always, and be it enacted*, That it shall not be lawful for the inhabitants of any District incorporated as aforesaid, to exercise any other powers of a Corporation, except such as are herein mentioned, or such as shall be expressly conferred by the Legislature of this Province, or such as shall be necessary for the due execution of the powers herein granted.

To have only such corporate powers as are expressly granted or absolutely necessary.

III. *And be it enacted*, That there shall be a District Council in each such District as aforesaid, which District Council shall consist of a Warden and Councillors, to be appointed and elected as hereinafter provided.

District Council, of whom to consist.

Governor to appoint a Warden of each District.

IV. *And be it enacted*, That it shall be lawful for the Governor of this Province, by Letters Patent, to be issued under the Great Seal of this Province, to appoint from time to time, as occasion may require, one fit and proper person to be Warden of and in each of the said Districts, for the purposes of this Act; and such Warden shall hold his office during pleasure.

District Councilors to be elected at the township meetings for the election of Town Officers, next after the passing of this Act;

V. *And be it enacted*, That at the first meeting of the inhabitant freeholders and householders of the several townships, or reputed townships, or unions of townships, and of reputed townships, in the districts aforesaid, respectively, to be held next after the passing of this Act, in pursuance of a certain Act of the Parliament of the late Province of Upper Canada, passed in the first year of Her Majesty's reign, and intituled "An Act to alter and amend sundry Acts regulating the appointment and duties of Township officers," there shall be elected by the said inhabitant freeholders and householders, assembled and qualified in the manner prescribed by the said Act, one or two Councillors, to be members of the said District Councils, respectively, according as such local divisions as aforesaid, may by reason of the amount of their population, and according to the provisions hereinafter contained, be empowered and required to elect one or two Councillors; and at each succeeding annual meeting, to be held as aforesaid, there shall be elected by the inhabitant freeholders and householders, assembled and qualified as aforesaid, a Councillor or Councillors, to supply the place of the Councillor or Councillors (if any there be) who, having been elected for the local division for which the meeting shall be held, shall have vacated his or their seat or seats, in the manner hereinafter provided; and a Councillor to represent such local division in the District Council, if such local division shall, since the then last election, have become entitled to elect two such Councillors instead of one.

And yearly at such meetings thereafter.

A copy of the assessment roll for the locality to be furnished to the Town Clerk.

VI. *And be it enacted*, That it shall be the duty of the Collector or Collectors in the locality for which any such election shall be held, to furnish to the Town Clerk, at least six days before the time appointed for such election, a certified list of all the inhabitant freeholders and householders entered upon the then last assessment roll for such locality; and those persons only whose names are entered on such list shall vote at the election; and it shall be lawful for the Town Clerk to require of and administer to any person claiming to be one of the persons entered in such list, the following oath:

No person not on such roll to vote.

Oath of identity.

"I do swear (or solemnly affirm) that I am A. B. whose name is entered on the assessment roll for the township of —, (or as the case may be) and that I have not already voted at this election."

But no other proof of qualification shall be then required of any such person.

Election of Councillors to be the first election had at such meeting

Mode of election.

VII. *And be it enacted*, That the said inhabitant freeholders and householders shall at every such meeting, first proceed to the election of a Councillor or Councillors; and the poll for such election, if demanded by any Candidate, or by any three Electors then present, shall be kept open to an hour not later than three in the afternoon of the day of such meeting, and shall then finally close, and poll lists shall be kept at such election by the Town Clerk, or person presiding at the same, in the form of the schedule hereunto annexed; and after the final close of such poll the person so presiding shall forthwith proceed publicly to declare the number of votes given for each Candidate, and shall declare the person or persons having the majority of votes, in his or their favor, to be duly elected Councillor or Councillors as aforesaid; and if there should be, at such final close of the poll, an equal number of votes polled for two or more persons to be Councillors as aforesaid, it shall be lawful for the person presiding at such election,

and he is hereby required, whether otherwise qualified or not, to give a vote for one or other of the persons having such equality of votes, and so determine the election; and the poll lists kept at such election shall, by the person so presiding, be delivered, after the conclusion of every such election, to the Clerk of the Peace of the District for which such election shall have been held.

Person presiding to have a casting vote.

VIII. *And be it enacted*, That before the person presiding at such election of Councillor or Councillors shall proceed to poll the votes there at, he shall subscribe and take the following oath, before some Justice of the Peace of the District, who is hereby empowered and required to administer the same, and who shall certify and return such affidavit to the Warden of the District, to be by him delivered to the Clerk of the Council, for safe keeping among the records and papers of the Council.

Oath to be taken by presiding officer.

"I, C. D., do swear (or solemnly affirm) that I have not, directly or indirectly, by myself or any other person, received any fee, gift, gratuity or reward, either in money or otherwise, or the promise of any as a consideration, for my returning or effecting the return of any person as a member of the District Council for the District of —, (as the case may be,) that I will, to the best of my skill and ability, fairly, honestly, and faithfully, conduct the present election for the choice of a member, (or Members, as the case may be) of the said Council, and truly return the Candidate (or Candidates, if two members are to be chosen) who at the final close shall appear to have the majority of votes, and that I will use my best endeavors to preserve peace and order at such election, and to give all persons entitled to vote, free and unmolested access to and from the poll."

IX. *And be it enacted*, That the person presiding at every such election shall, during the day and days on which the election may be held, be fully empowered to act as a Conservator of the Peace in and for the District; and such person presiding, or any Justice or Justices of the Peace present at such election, shall and may arrest or cause to be arrested, and may try or bind over for trial, or summarily punish by fine or imprisonment, or both, any riotous or disorderly person or persons, or any person or persons who may assault, beat, molest, or threaten any Elector, at, coming to or returning from the said election; and when thereto required, all constables and others at the said election are enjoined to aid and assist such person presiding, and Justice or Justices of the Peace, in discharging such duties, under pain of being deemed guilty of a misdemeanor, and liable to punishment therefor; and all Justices of the Peace residing in the township wherein the election is held, shall, upon being notified in writing by such person presiding, attend at such election for the purpose of aiding in preserving peace and order thereat; and such Justice or Justices, or person presiding, shall and may, when they consider it necessary, appoint and swear in any number of special Constables, not exceeding twenty-five, to act as peace officers and assist in maintaining peace and order at such election.

Powers granted to presiding officer at elections.

Justices of the Peace, upon being notified, to attend at elections.

X. *And be it enacted*, That the number of Councillors to be elected for each of the said Districts, shall be regulated as follows, that is to say:—Every township, or reputed township, entitled to elect Township Officers, shall also be entitled to elect one Councillor, and if in such township, or reputed township, there shall be more than three hundred inhabitant freeholders and householders in such assessment list as aforesaid, such place shall be entitled to elect two Councillors; and no township shall be entitled to elect more than two Councillors; *Provided always*, that the unions of townships, and of reputed townships to be made in pursuance of the Act of the Parliament of the late Province of Upper Canada, hereinbefore cited, shall be taken and considered to constitute townships for all the purposes of this Act.

Number of Councillors for each locality;

Unions of townships to be considered as townships.

Qualification of District Councillors.

XI. *And be it enacted*, That every person to be elected a member of a District Council as aforesaid, shall be resident within the township, or reputed township, for which he shall be elected, and shall be seized and possessed to his own use, in fee of lands and tenements within the District in which such local divisions respectively shall be situate, or within some one or other of the Districts next adjoining such District, of the real value of three hundred pounds currency, over and above all charges and incumbrances due and payable upon or out of the same.

Certain persons not to be elected District Councillors.

XII. *And be it enacted*, That no person being in Holy Orders, or being a Minister or Teacher of any Religious Sect or Congregation, nor any Judge or Judges of any Court, of Civil Jurisdiction, nor any military, naval, or marine officer in Her Majesty's service, on full pay, nor any person accountable for the District Revenues, nor any person receiving any pecuniary allowance from the District, for his services, nor any person having, directly or indirectly, by himself or his partner, any contract, or any share or interest in any contract, with or on behalf of the District, shall be qualified to be elected a Councillor in any District Council to be constituted under this Act.

No person attainted for treason or felony to be elected.

XIII. *And be it enacted*, That no person shall be capable of being elected a Councillor in any such District Council, who shall be attainted for treason or felony, in any court of law in any of Her Majesty's dominions.

Persons duly qualified to be liable to a fine for not serving;

XIV. *And be it enacted*, That every person duly qualified, who shall be elected to the office of Councillor, in any such District Council, shall accept such office, or in default thereof shall pay to the Treasurer of the District in which he shall have been so elected, a fine not exceeding the sum of Ten Pounds currency, or such other fine instead thereof as may hereafter be provided by a By-law of such Council, to be made in this behalf; and the said fine, if not duly paid, shall, together with the reasonable costs of recovering the same, be levied by distress and sale of the goods and chattels of the person so refusing to accept office, in execution of the warrant of any Justice of the Peace having jurisdiction within the District, who is hereby required, on the application of the Council, and after the conviction of the person so making default, by confession, or on the oath of one or more credible witnesses, to issue such warrant; and the fine so recovered shall be accounted for by the Treasurer, as part of the District Funds in his hands; and *Provided also*, That no person shall be liable to such fine as aforesaid, who shall, prior to such conviction, make oath before the Justice of the Peace before whom he shall be prosecuted, that he has not the qualification in property hereby required for a District Councillor; and *Provided also*, That no person disabled by permanent infirmity of body or mind, nor any person above the age of sixty-five years, nor any person who within five years from the day on which he shall have been so elected, shall have served in the office of Councillor, or paid a fine for not serving in the same, shall be liable to such fine as aforesaid.

Fine how recovered.

Exemptions.

Councillors not to act until they have taken the oath of allegiance and a certain oath of qualification.

XV. *And be it enacted*, That no person elected a Councillor as aforesaid, shall be capable of acting as such until he shall have taken and subscribed before the Warden of the District, or one of the Justices of the Peace who shall have authorised the election (who are hereby empowered to administer the said oaths,) the oath of allegiance to Her Majesty, her Heirs and Successors, and also an oath in the words or to the effect following, that is to say—

"I, A. B., having been elected a Councillor in the District Council of ———, do hereby sincerely and solemnly swear (or affirm), that I will faithfully fulfil the duties of the said office, according to the best of my judgment and ability; and that I am seized and possessed, to my

own use, of lands held in fee, viz: (*describing the lands,*) and that the said lands are within the District of ———, and are of the real value of Three Hundred Pounds, currency, over and above all charges and incumbrances due and payable upon or out of the same; and that I have not fraudulently or collusively obtained the same, for the purpose of qualifying me to be elected as aforesaid: So help me God."

XVI. *And be it enacted*, That every person duly qualified, who shall be elected to the office of Councillor as aforesaid, shall take and subscribe the oaths hereinbefore mentioned, within ten days after notice of his election; and in default thereof, such person shall be deemed to have refused to accept the said office; and shall be liable to pay the fine aforesaid as for non-acceptance of office, and the said office shall thenceforward be deemed to be vacant, and shall be filled up by another election.

Such oath to be taken within a certain time;

Penalty.

XVII. *And be it enacted*, That in cases where any person elected shall prove to be disqualified, or shall claim and prove exemption, or where any duly qualified person, elected to the office of Councillor in any of the said Districts, shall refuse to accept such office, or shall refuse or neglect to take and subscribe the above mentioned oaths, it shall be lawful for the Justices of the Peace who shall have signed the Warrant for the Township Meeting at which such person was elected, or for either of such Justices, as often as such case of refusal or neglect shall occur, to issue his or their Warrants to the Township Clerk, authorising him on a day to be named in the Warrant, (of which day not less than five days notice shall be given, in the same manner as is by law required with regard to the annual Township Meeting, to the electors qualified as aforesaid,) to proceed to another election of a fit and proper person to supply the place of the person who shall have so refused or neglected to accept office, or to take and subscribe the said oaths; and the Councillor who may be elected at such new election, shall hold office until the time at which the person in whose place he may have been elected, would, according to the provisions hereinafter contained, have gone out of office, and no longer, but shall be capable of immediate re-election, unless otherwise disqualified.

A new election to be had if the person first elected be disqualified, or exempt, or refuse to serve;

Mode of proceeding.

XVIII. *And be it enacted*, That if a vacancy or vacancies in any of the said Councils, whether arising from the death of any of the Councillors, or other cause, shall occur before the annual period of election hereinbefore prescribed, it shall be lawful for the Warden of the District in which such vacancy or vacancies shall have occurred, to issue in the name of Her Majesty, her Heirs or Successors, a warrant attested by him under his hand and seal, directed to the Clerk of the Township, or reputed Township, for which such vacancy or vacancies shall have occurred, requiring him, after five days notice to be given in the manner mentioned in the next preceding section to the electors qualified as aforesaid, to cause an election to be made of a Councillor or Councillors, to supply such vacancy or vacancies; which warrant shall, by such Town Clerk, be duly executed; and every Councillor elected under such warrant, shall vacate his seat in the Council, at the time when the person in whose stead he shall have been chosen would, according to the provisions hereinafter contained, have vacated his seat, but shall be capable of immediate re election, if not otherwise disqualified; *Provided always*, That no such warrant shall be issued as aforesaid, after the third quarterly meeting in any year.

Vacancies happening between the annual elections how to be filled.

Councillors elected to fill such vacancies; when to go out of office.

XIX. *And be it further enacted*, That on the first Monday in January, in the year next following that in which the first election shall be had, and on the same day in every succeeding year, one-third part of the entire number of Councillors in every District shall go out of office; and at the last quarterly meeting of each and every District

One third of the Councillors to go out of office in each year.

Who shall go out in the first and second year ;

When the number of Councillors is not exactly divisible by three ;

Councillors going out may be re-elected.

Mode of determining by lot what Councillors go out of office in the first and second years.

Warden to preside or in his absence a temporary Chairman.

Four quarterly meetings of the council to be held in each year.

Extraordinary meetings may be authorised by the Governor.

Council, in the year in which such first election shall be had, it shall be determined by lot, which among the Councillors shall go out of office for that year, and the next succeeding year; but thenceforward, in all future years, those persons who shall have been Councillors, without re-election, for the longest time, shall vacate their seats; *Provided always*, That when any District Council shall consist of a number of Councillors not divisible into three equal parts, it shall be lawful for such District Council, by a By-law to be made in this behalf, to fix and determine the number of Councillors to go out of office at the end of the first and second years respectively, which number shall be as near one-third of the whole number of Councillors as may be; and the number to go out of office shall be so regulated by such By-law, that at the end of three years none of the Councillors elected at the first election shall remain in office; and *Provided also*, That every Councillor who shall so go out of office shall, if not otherwise disqualified, be capable of being immediately re-elected.

XX. *And be it enacted*, That in order to determine, in each of the said Councils, what Councillors are to vacate their seats as aforesaid, in the first and second years after the first election under this Act, the Clerk of the Council, or other officer to be appointed for that purpose by the Council, shall, at the last quarterly meeting of such Council, to be held in the year in which such first election as aforesaid shall be had, write the name of each of the Councillors on a piece of paper, and place the same folded up in a glass or box, from which the names shall be drawn by some person appointed by the Council for that purpose; and the third of the said Councillors, (or the number of Councillors to go out in pursuance of the By-law to be made in that behalf as aforesaid,) who shall vacate their seats in the year then next following, shall be those whose names shall be first drawn; and the third of the said Councillors, or the number to go out of office in pursuance of such By-law as aforesaid, who shall vacate their seats in the next succeeding year, shall be those whose names shall be next drawn.

XXI. *And be it enacted*, That at all meetings of every such Council the Warden of the District shall preside; and, in case of his absence, death or incapacity to act, or of any accidental vacancy in the office of Warden, the members shall choose, from the Councillors present, one of their number to be temporary Chairman in the place of such Warden, during his absence, or during such accidental vacancy in the office of Warden.

XXII. *And be it enacted*, That there shall be in each year four quarterly meetings of every District Council constituted under the authority of this Act, which meetings shall commence on the second Tuesday in the months of February, May, August, and November, respectively; and the said meetings shall not at any time be held for a longer period than six successive days, (Sundays excepted,) and at no meeting of any such Council, shall any matter be deliberated or determined on, except such matters as fall within the scope of the powers and jurisdiction of such Council.

XXIII. *Provided always, and be it enacted*, That extraordinary meetings of any such Councils may be held by and under the authority of the Governor of this Province, signified in writing to the Warden of the District, who shall give due notice thereof to the Councillors of the District; and no such extraordinary meeting shall continue beyond the period of six days; and no matters shall be deliberated or determined on, at any such extraordinary meeting, except those for which the same shall have been specially convened.

XXIV. *And be it enacted*, That the meetings of the Council of each District respectively, shall be open to the public, and shall be held at

the place at which the sittings of the District Court for the same District are or may be appointed to be held; and may be held in the Court House of the District, unless some other building shall be provided for the purpose.

Meetings to be open to the public; where to be held.

XXV. *And be it enacted*, That all acts whatsoever, authorized or required by virtue of this Act, to be done by the Council of any of the said Districts, and all questions of adjournment or other questions that may come before any meeting of such Council, may and shall be done and decided by the majority of votes of the members present at such meeting, other than the Warden; and the Warden, or in the absence of the Warden, the temporary Chairman shall, in all cases of equality of votes, have a casting vote; but the Warden shall not vote except in such case of equality, and the temporary Chairman shall vote first as a member of the Council, and shall then, if there be such equality, have a casting vote; and in order to constitute a quorum, there shall be present at every such meeting a majority of the entire number of Councillors, by which such District is entitled to be represented in such Council; *Provided always*, That no District Council shall be incompetent to proceed to business, if a quorum be present, although all the Councillors by which the District is entitled to be represented, may not then have been elected, or have taken the oaths requisite to enable them to sit.

Questions in the council to be determined by the majority of votes of the Councillors present;

Casting vote;

Proviso.

XXVI. *And be it enacted* That minutes of the proceedings of all the meetings of the said Councils shall be drawn up and fairly entered in a book to be kept for that purpose by the Clerks of the said Councils, respectively; and such minutes shall be signed by the Warden or temporary Chairman, who shall preside at the meeting, and shall be open to inspection by any elector of the District, at all seasonable times on payment of a fee of one shilling.

Minutes of proceedings how to be kept.

XXVII. *And be it enacted*, That it shall be lawful for each of the said Councils, to appoint from and out of the Councillors elected to serve in such Council, such and so many Committees, consisting of such number of persons as they may think fit: *Provided always*, that it shall not be lawful for such Committees to sit or meet on any days, except those appointed for the meetings of the Council; and that such Committees shall be subject in all things to the authority, controul and approval of the Council.

Committees may be appointed; but shall not sit except on days on which the council may sit.

XXVIII. *And be it enacted*, That from and out of a list of three fit and proper persons, to be submitted by each of the said Councils to the Governor of this Province, it shall be lawful for the said Governor to select one to be, and be called the District Clerk; and every such Clerk shall be appointed by an Instrument to be issued under the Great Seal of this Province, and shall hold his office during pleasure: *Provided always*, That if at the first meeting under this Act, or at the next quarterly meeting after any vacancy shall have occurred in the office of District Clerk, or at any extraordinary meeting to be called for the purpose of filling up such vacancy, any such Council shall fail to agree upon the three names to be submitted as aforesaid to the said Governor, then it shall be lawful for the said Governor to appoint some fit and proper person to be such Clerk: *And provided also*, that it shall be lawful for the Warden to appoint a person to act as Clerk until such time as a Clerk shall be appointed in the manner hereinbefore provided.

Clerk of the Council how and by whom appointed;

Vacancy in the office of District Clerk, how to be filled up;

Temporary Clerk in certain cases.

XXIX. *And be it enacted*, That upon, from and after the said first day of January, in the year of our Lord one thousand eight hundred and forty-two, the power now vested in the Justices of the Peace in any District, to appoint the District Treasurer thereof, shall cease and determine, and the office of each and every District Treasurer so appoint-

The office of each of the present District Treasurers, to be vacated on the first January,

1842; and the Governor to appoint a Treasurer in each District.

ed before the said day, shall be vacated, upon from and after the same; and it shall be lawful for the Governor of this Province, to appoint in each of the said Districts one fit and proper person to be, and be called the District Treasurer, and to hold his office during pleasure; and such appointment shall be made by an Instrument to be issued under the Great Seal of this Province, after the person named by the said Governor shall have first given good and sufficient security, to be ascertained and determined by the said Governor, for the due execution of the office of Treasurer, and for the faithful accounting for all the monies which may come into his hands by virtue of the said office; and such appointment may be made at any time after the passing of this Act, but the District Treasurer so appointed shall not enter upon any of the functions of his office until the day last aforesaid.

Such new Treasurer to receive all monies under any By-law of the District Council, or directed by law to be paid to the District Treasurer.

XXX. *And be it enacted*, That it shall be the duty of the Treasurer of each of the said Districts, respectively, to receive all monies which shall be raised under any By-law to be made as hereinafter provided, by the Council of the District wherein he shall have been appointed Treasurer, and also all monies which under any Act of competent Legislative authority within this Province, have been or shall be directed to be paid to or received by any District Treasurer, and to apply and account for the same in such manner as may be prescribed by any By-law of such Council, or by any Act of such competent Legislative authority as aforesaid.

The new District Treasurer to be substituted for the Treasurer vacating office as aforesaid.

XXXI. *And be it enacted*, That each District Treasurer appointed under the authority of this Act, shall upon, from and after the day last aforesaid, be to all intents and purposes substituted to and for the District Treasurer appointed for the same District, in the manner now authorized by law, and shall have the same rights and powers with regard to such former District Treasurer, his sureties, and all other parties concerned, as if he had succeeded to such former District Treasurer by virtue of an appointment made in the manner now provided by law, on the removal from office of such former District Treasurer; saving only that he shall be under the controul of, and accountable to the District Council, and the Auditors hereinafter mentioned, touching all matters and things within the scope of the powers and jurisdiction of the District Council, and shall not, with regard to such matters and things be under the controul of and accountable to the justices of the Peace for the District, and upon, from and after the said day, each District Treasurer appointed under this Act shall have all the rights, powers, and authority, and shall be subject to all the duties, obligations, and liabilities, which the District Treasurer appointed for the same District by the Justices of the Peace, would have had, or would have been subject to, if this Act had not been passed; saving always that he shall not be under the controul of, or accountable to the Justices of the Peace for the District, but shall be under the controul of, and accountable to the District Council, and the Auditors hereinafter mentioned, touching all matters and things within the scope of the powers and jurisdiction of the District Council, but shall with regard to all other matters and things be and remain under the controul of, and accountable to the Justices of the Peace for the District, and to other authorities and parties, as the District Treasurer appointed for the same District by the said Justices would have been, if this Act had not been passed.

Exceptions.

He shall have all the rights, and be subject to all the duties, and liabilities of the former District Treasurer.

District Treasurer to keep true account in certain Books.

XXXII. *And be it enacted*, That every District Treasurer shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and for which he may be accountable to the District Council, or to the Auditors hereinafter mentioned, and of the several matters for which the same shall have been received and paid; and the books so kept shall at all seasonable times be open to the inspection of every member of the Council, and all such accounts, to-

gether with all vouchers and papers relating thereto, shall, four times in every year, that is to say, within one month after every quarterly meeting, be submitted, together with an abstract of such accounts for the last year, by the Treasurer to the District Auditors, (to be appointed as hereinafter provided,) for the purpose of being by them examined, and audited; and if the said accounts shall be found to be correct, the same shall be approved and allowed by the said Auditors; and after the said accounts shall have been so examined and audited, the said Auditors shall make their report thereon to the Council at its next quarterly meeting; and every such abstract and report shall be open at all seasonable times to the inspection of any inhabitant of the District, who shall also be entitled to copies thereof, on payment of such reasonable fee for the same as the Council shall establish.

Such accounts to be submitted quarterly to the District Auditors.

Abstract of and report on such accounts, to be open to the inhabitants of the District.

XXXIII. *Provided always, and be it enacted*, That no District Treasurer appointed under this Act, shall be entitled to any salary, per centage, or remuneration whatever, for any service performed under the direction or controul of the District Council, or on any monies for which he shall be accountable to the District Auditors, unless and until his accounts shall have been duly audited, approved and allowed by such district auditors; and in every bond and other security given by any such treasurer for the due execution of his office, it shall be expressly conditioned that he shall render true accounts to such auditors, within the time and times prescribed by this Act, or within the time and times which shall be prescribed by any other laws which shall be in force in that behalf; and so much of any act or law now in force as may be inconsistent with the provisions of this section, shall be and is hereby repealed.

No District Treasurer to have any salary or per centage until his accounts have been audited.

XXXIV. *And be it enacted*, That there shall be appointed at the first quarterly meeting in each year, for each district, two persons to be and be called "district auditors," one of whom shall be appointed by the warden of the district, and the other elected by the council: *Provided always*, that no person shall be appointed or elected auditor, who shall be a member of the council, or the clerk, or treasurer, or surveyor of the district, nor any person who shall have directly or indirectly, by himself or in conjunction with any other person, any share or interest in any contract or employment with, by or on behalf of such council: *And provided also*, that no person appointed or elected an auditor for the district, shall be capable of acting as such, unless he shall have previously made and subscribed before any two of the councillors for such district, (who are hereby authorized to administer the same) an oath in the words or to the effect following, that is to say:—

Auditors, how appointed and elected.

Certain persons disqualified to be Auditors.

Auditors to take an oath of Office.

"I, A. B. having been appointed (or elected, as the case may be) to the office of auditor, for the district of _____ do hereby promise and swear, that I will faithfully perform the duties thereof, according to the best of my judgment and ability; and I do hereby solemnly declare and swear, that I have not, directly or indirectly, any share or interest whatever, in any contract or employment with, by, or on behalf of the council of this district. So HELP ME GOD."

The oath.

XXXV. *And be it enacted*, That every person authorised by law to make an affirmation instead of taking an oath, shall make such affirmation in every case in which by this Act an oath is required to be taken; and if any person taking any oath required by this Act, or making any affirmation instead of taking such oath, shall wilfully swear or affirm falsely, such person shall be deemed guilty of wilful and corrupt perjury, and be liable to the pains and penalties by law provided for that offence.

Persons authorised by Law to affirm instead of taking an oath, may affirm where an oath is required by this Act.

XXXVI. *And be it enacted*, That it shall be the duty of the auditors in each of the said districts, to examine, settle and allow, or report upon

Duties of the Auditors.

What accounts
they shall audit.

A District Surveyor to be appointed by the Warden with the approval of the Governor.
His Duties ;

To report to the
Warden.

No person to be appointed District Surveyor until he has been examined and found qualified.

No person to hold more than one District office ;

Certain persons disqualified.

The council may make by-laws for certain purposes.

Internal communications.

Bridges and public buildings.

Purchasing property for the District.

Selling property of the District.

all accounts which may be chargeable upon or may concern their districts respectively, and which may relate to any matter or thing under the controul of, or within the jurisdiction of the district council, and may then remain unsettled, whether such accounts relate to debts or liabilities of or to the district, contracted before or after the said first day of January, 1842 ; and also to examine and audit the accounts of the township officer or officers of reputed townships, appointed or hereafter to be appointed in pursuance of the aforesaid Act of the Parliament of Upper Canada, and the accounts of all other persons, against their respective townships ; and the said auditors shall, for the purpose last aforesaid, be substituted for the town wardens appointed under the authority of the said Act.

XXXVII. *And be it enacted*, That it shall be lawful for the warden of each of the said districts respectively, with the approbation of the Governor of the Province for the time being, to appoint in and for his district, some fit and proper person to be and be called "The District Surveyor;" whose duty it shall be to superintend the execution of all works undertaken in pursuance of any by-law of the council of such district, and to take care of all fixed property belonging to such district, and to examine and report upon all estimates of proposed works, and to enforce the observance of all contracts for the execution of works undertaken for or on behalf of the said district, and to report annually, or oftener if need be, to the said warden, upon the state of the works in progress, and of the fixed property belonging to such district ; and all such annual or other reports shall be laid by the warden before the district council, at the quarterly meeting next after any such report shall have been received, together with an estimate of the probable expense of carrying on such works, and managing such fixed property, during the then current or next ensuing year : *Provided always*, that no person shall be appointed to be such surveyor unless and until he shall have been examined and declared qualified for the office, by the Board of Works for this Province, or by some other competent person or persons to be named for that purpose by the Governor of this Province.

XXXVIII. *And be it enacted*, That it shall not be lawful for any person to hold at the same time more than one of the district offices hereby created ; nor shall it be lawful for the partner of any such district officer to hold any district office in the same district wherein such officer shall be employed ; nor shall it be lawful for any such officer to have directly or indirectly any share or interest whatsoever, either by himself or his partner, in any contract for executing any work to be undertaken by, for or on behalf of the council of such district.

XXXIX. *And be it enacted*, That it shall be lawful for each of the said councils, in the said districts respectively, to make by-laws for all or any of the following purposes, that is to say :—

For the making, maintaining or improving, of any new, or existing road, street, or other convenient communication and means of transit within the limits of the district, or for the stopping up, altering or diverting of any road, street or communication within the limits aforesaid :

For the erection, preservation and repair, of new or existing bridges and public buildings :

For the purchase of such real property situate within the limits of each such district respectively, as may be required for the use of the inhabitants thereof :

For the sale of such part or parts of the real property belonging to such districts respectively, as may have ceased to be useful to the said inhabitants.

- For the superintendence and management of all property belonging to the said districts respectively : Superintending such property.
- For providing means for defraying such expenses of or connected with the administration of justice within the said districts respectively, as are or may be hereinafter by law directed to be defrayed by the district or out of the district funds : Administration of Justice.
- For providing for the establishment of and a reasonable allowance for the support of schools : Schools.
- For raising, assessing, levying, and appropriating, such monies as may be required for the purpose of carrying into effect all or any of the objects for which the said district councils respectively, are hereby empowered to make bye-laws; which monies shall be raised either by means of tolls, to be paid in respect of any public work or works, within the limits of the said districts respectively, or by means of rates or assessments to be assessed and levied on real or personal property, or both, within the limits of such districts, or in respect of such property, upon the owners and occupiers thereof : Raising money for District purposes.
- For the collection of and accounting for all tolls, rates and assessments, imposed or raised under the authority of any such council, and of the revenues belonging to such districts respectively : Collecting and accounting for such monies.
- For imposing and determining reasonable penalties to be recovered from such persons as having been elected to offices, as herein before provided, shall refuse to serve the same, or refuse or neglect to take and subscribe the oaths of office, as hereinbefore prescribed, for such officers respectively : Imposing penalties on persons elected and refusing office.
- For determining the amount and manner and time of payment of all salaries or other remuneration of district officers, to be appointed under the authority of this act : Remunerating District Officers.
- For determining the amount of salary, fees or emoluments, which shall be received by the several township officers within the limits of such districts respectively, to be appointed or elected in pursuance of any act or other law now in force, or which may hereafter be in force in that part of this Province to which this act applies : Remunerating township officers.
- For establishing a rate of commutation to be paid in money by each person bound to perform statute labour on any road within the district, in lieu of such labour and for directing how such commutation money shall be collected, levied and applied : and, Commutation of statute labour.
- For providing for any other purpose, matter or thing, which shall be specially subjected to the direction and controul of the said district councils respectively, by any act of the legislature of this Province ; but no such bye-law shall impose any punishment of imprisonment, or any penalty exceeding five pounds. Other purposes ;
Limitation.

XI. *Provided always, and be it further enacted*, That it shall not be lawful for any such district council as aforesaid, to impose, lay or levy, any rate or assessment whatever on any lands or tenements, goods or chattels real or personal estates, belonging to Her Majesty, her heirs or successors. No tax to be laid on property belonging to the Crown.

XII. *Provided also, and be it enacted*, that in assessing any rate or tax which shall be levied under the authority of this act, such property only shall be assessed as is now liable by law to be assessed for rates in any district, and that in making such assessment all such property shall be respectively valued at the rates at which it is by law directed to be valued in making assessments of such rates as aforesaid for any district; *Provided always*, That the assessment shall not in any case exceed the sum of two pence in the pound on the assessed value ; *Provided also*, That the sum to be raised under any bye-law shall be limited by such bye-law, and shall afterwards be apportioned and assessed equally upon all property, except land liable to assessment within the No property to be assessed except such as is now liable to assessment ;
Any sum to be raised, to be assessed on all property liable to assessment within the locality ;
This shall not limit total amount to be levied by any Council ;

But all lands may be taxed for District purposes to an amount not exceeding $1\frac{1}{2}$ per acre in any year.

Existing rates to continue in force until it be otherwise provided by the District Council.

Existing debts and liabilities of any Districts to be assumed and discharged by the District Council.

Existing debts and liabilities in favour of any District, may be enforced by the Council.

Council not to issue notes, or to act as Bankers.

The present allowances to Collectors, Treasurers, and Township Officers, to be continued until it be otherwise ordered by the District Council.

Rules, &c. made by Justices of the Peace, to remain in force until altered by the Council.

New works not to be undertaken until reported on by the District Surveyor, and they exceed a certain sum, by the Board of Works.

locality in which such sum is to be raised according to the value assigned to such property by the assessment laws aforesaid; but it shall be lawful for any district council, by any such bye-law as aforesaid, to direct that all the lands within the district shall be rated and assessed for such parts of the sum to be raised under such bye-law, as to the said council shall seem expedient, provided the total amount of rates or taxes levied for district purposes, in any one year, on the land within any district, shall not exceed one penny half-penny currency per acre.

XLII. And be it enacted, That all existing rates now lawfully imposed in any district, for any purpose within the scope of the powers of the district council, and in force on the said first day of January, 1842, shall continue in force and shall be paid over to and received by the treasurer, to be appointed under this act for such district, and shall be collected by the collectors of the several townships and places within the district, until it shall be otherwise provided by a bye-law of the district council.

XLIII. And be it enacted, That all lawful debts and liabilities of any district, or of the justices or treasurer for the same, in respect of such district, shall be assumed and paid by the district council thereof, upon, from and after the said first day of January, 1842, on the same terms and conditions as they would have been, payable by or might have been enforced against such district, treasurer or justices; and all debts, obligations and liabilities of any kind whatever, due to or contracted in favour of such district, or to or in favour of such treasurer or justices in respect thereof, and all property whatsoever belonging to the district, shall at the same time become vested in and due to, and may be enforced by the district council, on the same terms and conditions as they would have been due to, and might have been enforced by such district, or the justices of the peace or treasurer for the same, if this act had not been passed; *Provided always,* That it shall not be lawful for any district council to issue or authorize the issue of any bill or note or in any way to act as bankers, or to authorize any person or party to act as such.

XLIV. And be it enacted, That all allowances or per centage granted to any collector or treasurer by the laws now in force, on monies collected or received by him which will, after the said first day of January, 1842, be subject to the disposal and controul of the district council, shall from and after the said day, continue to be allowed to such collector or treasurer until it be otherwise ordered by a bye-law of the council; subject always to the provisions herein-before mentioned as to the auditing of the accounts relative to such monies: and all salaries, wages and allowances of any kind now granted to any township officer, or to the clerk of the Peace, for any services performed with regard to matters hereby placed under the controul of the district council, shall continue to be allowed and paid until it shall be otherwise ordered by such council.

XLV. And be it enacted, That all rules, orders, and regulations, of any kind, made before the day last aforesaid, by the justices of the peace, for any district, relative to any rate, assessment, road, public work, matter or thing, hereby placed under the controul of the district council, shall remain in force and effect until it be otherwise ordered by a bye-law of the district council.

XLVI. Provided always, and be it enacted, That it shall not be lawful for any such Council to pass any by-law for performing any public work, not commenced or ordered to be commenced by the Justices of the Peace for the District, before the day last aforesaid, without having first received an estimate of such work, prepared or examined, and reported upon by the District Surveyor; and if the cost of such work

will, in the opinion of the said Surveyor exceed the sum of Three Hundred Pounds, Currency, such estimate shall also be examined and reported upon by the Board of Works for this Province, or by some other competent body or person for that purpose, to be appointed by the Governor of this Province: *And provided also*, that every such work to be executed in pursuance of any such by-law, shall be executed under a contract in writing, in conformity with and subject to such general regulations as shall from time to time be made touching the terms and the mode of execution of any such contracts by the Board of Works of this Province.

XLVII. *Provided always, and be it enacted*, That an authentic copy of every by-law passed by any District Council, shall forthwith after the passing thereof, be transmitted by the Warden of the District, or the Chairman of the District Council who may have supplied his place, to the Secretary of the Province, who shall, on receipt of the same, note on the copy so received, the time of its receipt, and shall lay the same before the Governor of the Province; and no such by-law shall be of any force until the expiration of thirty days after an authentic copy thereof shall have been received as aforesaid, and it shall be lawful for the Governor of this Province, by and with the advice of Her Majesty's Executive Council, at any time within the said period of thirty days, by his order in council, to declare his disallowance of any such by-law, and such disallowance, together with a certificate under the hand of such Secretary of the Province, certifying the day on which such by-law was received as aforesaid, shall, with all convenient speed, be signified to the Warden of the District wherein such by-law shall have been passed; and such by-law, so disallowed, shall be void and of no effect: and *Provided also*, That any by-law repugnant to the law of the land, or to any of the provisions of this Act, shall be void and of no effect.

By-law passed by any District Council, to be transmitted to the Secretary of the Province, and may be disallowed by the Governor in Council, at any time during thirty days thereafter, and shall have no effect in the mean time.

Effect of and mode of signifying disallowance.

XLVIII. *And be it enacted*, That the said District Councils, at their quarterly meetings aforesaid, shall have power to authorize and direct the raising of such sums of money, by the several Townships, or reputed Townships, or by any locality within such Districts respectively, as may be requisite for the payment of all salaries and accounts due to Township officers and other persons, by such Townships, or reputed Townships respectively, or to defray the cost of any work which the Council may direct to be performed at the expense of such Township or Townships, or locality.

The Council may direct any sum to be raised within any locality to defray expenses peculiar to such locality.

XLIX. *And be it enacted*, That the Warden of each of the said Districts shall, at the end of each year, transmit to the Governor of this Province, a statement of the accounts of the District, exhibiting an abstract of the receipts and expenditure during the preceding year; and all such accounts so transmitted shall, by the said Governor, be laid before the two Houses of the Legislature of this Province, at the Session of the Provincial Parliament next following the transmission of the said accounts.

Abstract of the District accounts to be transmitted by the Warden yearly to the Governor, who shall lay them before the Legislature.

L. *And be it enacted*, That no Councillor shall, in any case, receive or be entitled to any wages, allowance, profit or emolument whatever, for his services as such Councillor, or by reason of his being such Councillor.

No Councillor to derive any profit from his office as such.

LI. *And be it enacted*, That all and every the power and authority which by any Act or Acts in force within that part of this Province which formerly constituted the Province of Upper Canada, are now vested in the Justices of the Peace for the several Districts, with regard to highways and bridges or work connected therewith, and to the appointment of Surveyors of Roads and other Road Officers, or to the making of any rates or assessments for any purpose connected with

Certain powers now vested in the Justices of the Peace, transferred to the District Council.

The Council may exercise such powers without observing any formality. And on such information and evidence as they may deem sufficient.

any of the subjects concerning which power is hereby given to the District Council to make by-laws, or to the making of any order, rules or regulations, touching any such subject, shall from and after the said first day of January, one thousand eight hundred and forty-two, become and be vested in and may be exercised by the District Council for such Districts respectively, within the limits thereof; *Provided always*, That it shall not be necessary for the exercise of the said powers, whether in relation to any old road, bridge, or other work connected with any highway, or the laying out, erection or performance of any new road, bridge or work, or to any other such subject as aforesaid, that any Report of any Surveyor or Surveyors of Roads should be made to, or directed to be made by the District Council, or that any other formality of any kind now requisite should be observed, nor shall the intervention of any Court or other authority whatsoever be required previous to the passing of any by-law to be made by the District Council in any such matter as aforesaid; but such District Council may upon such information and after such inquiry as they may deem sufficient, order and require by a by-law, that any thing be done in any such behalf as aforesaid, which the Justices of the Peace could have ordered to be done in the same behalf, after the formalities and evidence now by law required in like cases, had been observed and adduced: any Law or Statute to the contrary notwithstanding: *Provided always*, That no such by-law as aforesaid shall be contrary to the laws in force in the said portion of this Province, except in so far only as such laws are hereby expressly derogated from or may be inconsistent with the provisions of this Act.

Proviso.

Surveyors of Roads, appointed by the Council to have the same authority as those now appointed by the Magistrates.

LII. *Provided also, and be it enacted*, That the Surveyors of Roads to be appointed by the District Councils, shall have the same powers as are by law vested in the Surveyors of Roads now appointed by the Justices of the Peace for the District, except where such powers may be inconsistent with the provisions of this Act, or the powers hereby conferred on the said District Councils: and that nothing in this Act contained shall be construed to affect or abridge the power of any Justice or Justices of the Peace, or of any Court with regard to the enforcement of any penalty imposed for any offence against any law relating to roads, not inconsistent with this Act.

Proviso.

This Act not to extend to certain Turnpike Roads;

LIII. *And be it enacted*, That nothing in this Act contained shall extend to any Turnpike road placed by law under the control of the Commissioners of any District Turnpike Trust, so long as such road shall continue lawfully under such control; nor to any Turnpike road or Toll Bridge belonging to any Company (whether incorporated or otherwise) or to any individual or number of individuals, nor to any public work vested in the Board of Works, or placed by law under its exclusive control; or to any Provincial work or works belonging to or under the control of Her Majesty's Home Government, or the Military authorities.

Or to certain Provincial works.

The Justices of the Peace, and others, to deliver over to the District Councils, all documents, &c. relative to matters under the controul of the Council.

LIV. *And be it enacted*, That the Justices of the Peace for each District, and the Surveyors of Roads therein, shall within two months after the said first day of January, one thousand eight hundred and forty two, deliver over to the Council of the District or to their Clerk, or such persons or officers as such Council shall appoint to receive the same, all and every the records, books, judgments, reports, orders, plans, documents, instruments and writings, in their custody, possession or power, appertaining or relating to the Roads, Highways and Bridges, within the District, or to any matters whatever hereby placed under the control of such District Council, or of the officers to be appointed by them; and if any person or officer shall refuse or neglect to deliver, as aforesaid, any such record, book, judgment, report, order, plan, document, instrument or writing, as aforesaid, such person or officer shall

Penalty for neglect.

be held guilty of a misdemeanor, and shall besides be liable to make satisfaction to the District Council or to any party aggrieved or injured, for any loss or injury sustained by the District, or by such party by reason of such neglect or refusal.

LV. *And be it enacted*, That all fines and penalties imposed by any by-law made by any district council, and with regard to which no special provision is hereby made, may be recovered with costs, on the oath of one credible witness other than the prosecutor, by summary proceeding before any two justices of the peace for the district in which such fine or penalty shall have been imposed, and may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under warrant of the justices or one of them; and one moiety of such penalty shall belong to the informer or prosecutor, and the other moiety to the district, unless the informer or prosecutor shall renounce his portion of such fine or penalty, in which case he shall become a competent witness, and the whole fine or penalty shall belong to the district, and shall (as shall the moiety in the case first mentioned) be paid over to the treasurer of the district and make part of the funds thereof in his hands.

Fines and penalties imposed by laws of the Council, how to be recovered.

Application.

LVI. *Provided always, and be it enacted*, That no person shall be deemed incompetent to be a witness in any prosecution or suit for the recovery of any such fine or penalty, or in any suit for the recovery of any sum of money payable to the treasurer of the district, by reason of such person being an inhabitant of the district, or a member or officer of the district council, or in their employ, provided such person have no other and more immediate interest in the event of such suit or prosecution.

Inhabitants of District or District Officers, not to be incompetent as witnesses, if they have no more direct interests.

LVII. *And be it enacted*, That all rates imposed by any district council under the authority of this act, shall be collected, paid, recovered, secured and levied, in the same manner and by the same officers and under the same provisions, as other rates now lawfully imposed except in so far only as such provisions may be inconsistent with the enactments of this act; and all tolls imposed by any district council shall be collected, secured, recovered and levied, in the manner to be provided, with regard to the same by the by-law by which they shall be imposed, and may be recovered with costs in any court of competent civil jurisdiction.

Rates imposed by any District Council how to be recoverable.

LVIII. *And be it enacted*, That all sums of money now payable out of the funds of any district, for any public purpose whatsoever, not within the scope of the powers of the district council, shall continue to be payable out of the funds of such district, by the treasurer thereof as before the passing of this act until it be otherwise directed by any act of the provincial legislature.

Monies now payable out of District funds for purposes not within the powers of the Council, to continue so payable.

LIX. *And be it enacted*, That the expenses of levying, and collecting and managing the rates and taxes imposed or to be imposed in any district, shall form the first charge on the district funds; that all sums of money which now are or may hereafter be made payable out of the funds of any district to the sheriff, coroner, gaoler, surgeon of the district gaol, or to any other officer or person, for the support, care, or safe keeping of the prisoners in the district gaol, or for the repairing and maintaining of the court-house or gaol, or for any other purpose whatever connected with the administration of justice within the district, shall form the second charge upon the district funds, and shall be paid out of the same by the treasurer before and in preference to all other charges whatsoever, except the expenses forming the first charge; that all debts and liabilities of the district created before the said first day of January, 1842, and assumed by any district council under the provisions of this act, shall at the time and on the condition on which

Order of charges on the District funds.

1st. Expenses of collection &c.;

2nd. Such expenses of the administration of Justice as are payable by the District.

3rd. Debts due by the District before 1st Jan. 1842;

4th. Sums payable for purposes not under the control of the District Council;
5th. Sums so payable for purposes under such control.

Rights, powers and provisions of law, not inconsistent with this Act, not to be affected by it.

The Governor with the advice and consent of the Executive Council, may dissolve all or any of the District Councils.

New elections.

Effects of such dissolution.

How this Act shall effect corporate Towns or places, having local or municipal authorities.

Existing rates or money paid in lieu thereof, saved.

they shall become due and payable, be the third charge upon the district funds; that all sums of money now payable out of the funds of any district, for any public purposes whatsoever, other than those before mentioned in this section, and not within the scope of the powers of the district council, shall form the fourth charge on the district funds; and that sums and expenses directed by any by-law of the district council to be paid out of the district funds shall, in the order in which they shall be directed to be so paid form the fifth charge on the said funds.

LX. *And be it enacted*, That nothing in this act shall be construed to repeal or affect any enactment or provision of any law in force within that part of this province to which this act applies, or any power, right, authority, duty, obligation or liability, thereby conferred or imposed upon any officers, party or person, or the election or appointment of any district, parish, or township officers, unless, and so far only as such enactment or provision shall be inconsistent with or repugnant to the express enactments or provisions of this act, or the attainment of the objects and purposes thereof, according to its true intent and meaning.

LXI. *And be it enacted*, That it shall be lawful for the governor of this province for the time being, by proclamations to be issued by and with the advice and consent of the executive council of the province, when and as often as circumstances shall, in his and their opinion warrant such a measure, to dissolve all or any of the aforesaid councils; and in every case of a dissolution of such council or councils, the warden of the district wherein such dissolution shall have taken place, shall within ten days after such dissolution, issue his warrant in the name of Her Majesty, her heirs or successors, under his hand and seal directed to the clerk of each of the several townships comprised within the said district, requiring such clerk to proceed, after due notice in this behalf to the electors qualified as aforesaid, to cause elections to be made in each of the townships of the said district, of a councillor or councillors, according as such township may, by the provisions herein before contained, be entitled to elect one or two councillors; and such new elections shall be governed by the same rules and provisions as are herein before provided for the election of councillors; and in all cases where such new election of councillors, after a dissolution shall take place as aforesaid, the period at, from and after which councillors shall vacate their seats, in certain proportions as herein before provided, shall commence upon and be accounted from the first Monday in January next following such elections; and the retirement of councillors in the first and second years after such elections, shall in all respects be regulated by the provisions hereinbefore contained with respect to the retirement of councillors to be elected at the first election to be held under and by virtue of this act, in the first and second years after that in which such election shall be had.

LXII. *And be it enacted*, That nothing in this Act contained shall affect any exclusive rights, powers, privileges or jurisdiction of the corporation or municipal authorities of any incorporated city or town, or of any town or village within which any Board of Police or other municipal or local authorities may be established; *Provided always*, That all powers and authority vested, at the time of the passing of this Act, in the justices of the peace for any district, and being of the nature of those hereby transferred from such justices to the district councils may be exercised by such district council within any such city, town or village, as they might have been exercised by such justices if this Act had not been passed; and all property of what kind soever now belonging to the district and lying within any such city, town or village, shall be vested in and shall be under the controul of such district council,

in the same manner as other property belonging to the district ; and all district rates or taxes which are now lawfully imposed or laid by the justices of the peace for the district, on any person or on any property within such city, town or village, or any money payable to the district in lieu of rates shall continue to be payable to the treasurer, and shall form part of the district funds, until it be otherwise ordered by a by-law of the district council ; and all such rates and taxes as might be now lawfully laid or imposed by such justices, may be imposed or laid by the district council, as they might have been by the said justices, if this act had not been passed.

Rates which might be imposed by Justices in any such town, &c., may be imposed by the District Council.

LXIII. *And be it enacted*, That the words "Governor of this Province," wheresoever they occur in the foregoing enactments, shall be understood as comprehending the Governor, Lieutenant Governor, or person authorised to execute the office or functions of Governor of this Province.

Interpretation clause.

SCHEDULE.

NAMES Of Inhabitant Freeholders and House- holders on the last Assessment Roll, for the of	NAMES OF CANDIDATES.			
	A. B.	C. D.	E. F.	G. H.
John Bull	1	—	—	—
Patrick O'Neill	—	—	1	—
David Lloyd	—	—	1	—
Dugald Scott	—	—	—	1
Peter Jones	—	—	1	—
Amos Squiggs	—	1	—	—
&c. &c.				

DIVISION COURT ACT.

AN ACT,

To repeal the Laws now in force in that part of this Province, formerly Upper Canada, for the recovery of Small Debts, and to make other provisions therefor.

[Passed 27th August, 1841.]

Preamble.

Certain Acts of the Legislature of Upper Canada relating to Courts of Requests repealed after a certain day.

The powers granted to any Courts of Requests by any other Act to cease from the said day.

Judgments and orders of discontinued Courts to remain in force.

How and by whom the same shall be enforced and executed.

Each District in Canada West to be divided into divisions by the Justices of the Peace in Quarter Sessions

WHEREAS the system and practice of the Courts of Requests established under and by virtue of certain Acts of the Parliament of the late Province of Upper Canada, require to be amended: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled "An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada;" and it is hereby enacted by the authority of the same, that from and after the first day of December next ensuing, a certain Act of the Parliament of the said late Province of Upper Canada, passed in the third year of the Reign of His late Majesty King William the Fourth, intituled, "An Act to repeal part of, amend and reduce to one Act of Parliament, the several Laws now in force in this Province for the recovery of Small Debts, and to extend the jurisdiction of the Court of Requests within the same"; and also a certain other Act of the Parliament of the said late Province, passed in the seventh year of the Reign of His late Majesty King William the Fourth, intituled, "An Act to amend the Law relating to the Court of Requests", shall be and the same are hereby repealed, and all the powers and authorities given by the said Acts or by any other Acts of the Parliament of the said Province, to any Courts of Requests, and to the several Commissioners thereof, shall then cease and determine; Provided always, that all orders, decisions and judgments of any Court discontinued by virtue of this Act, shall remain and be of the same force as if this Act had not been made, except that when any such order or judgment shall have been made for the payment of money to, or shall have authorized money to be collected by any officer of such discontinued Court, such order or judgment shall stand in force for payment of such money to the Clerk or other officer appointed to receive the same, of the Court created by this Act, and holden for the division including the place in which such discontinued Court was holden; and it shall be lawful for the Judge of the District Court to enforce all orders, decisions or judgments of such discontinued Court, which are unperformed or in course of being performed (employing for that purpose the proper officers of his Division Court) as fully and in like manner as if such orders had been made by the authority of the said Judge.

II. And be it enacted, That it shall and may be lawful for the Justices of the Peace of each District, now or hereafter to be erected in *Canada West*, at the first General Quarter Sessions which shall be holden after the passing of this Act, to declare and appoint the limits and extent of six divisions within their respective Districts, and also, from time to time, in like manner to alter the limits and extent of such divisions;

and that a Court shall be holden under this Act once in two months in and for every such division; and that it shall and may be lawful for the said Judge of the said Court to fix and appoint the times and the places within such divisions, when and at which such Courts shall be holden, and in like manner from time to time, to alter the same.

And a Court to be holden in each such division, for the purposes of this Act.

III. *And be it enacted*, That the divisions of each District so declared and appointed, and the times and places of holding such Courts, and all alterations that may be from time to time made therein as aforesaid, shall be entered and recorded by the Clerk of the Peace, in a book to be by him kept for that purpose; and that it shall be his duty to transmit to the Governor of this Province, a copy of every such entry and record as soon as the same shall have been made.

Orders made by such Justices in the behalf aforesaid to be recorded, and a copy transmitted to the Governor.

IV. *And be it enacted*, That the Justices so assembled as aforesaid, shall be required to number the said divisions, beginning at number one; and that the Court to be held in each division shall be known by the name and style of *The* (first or other as the case may be) *Division Court for the District of*

How Division Courts in each District shall be distinguished.

V. *And be it enacted*, That the Judges of the District Courts of the several Districts in this Province, shall preside over the Division Courts within their respective Districts, and no such Judge shall during the continuance of his appointment, be capable of being elected or of sitting as a Member of the Legislative Assembly of this Province.

The Judges of the District Courts to preside over the Division Courts, and to be ineligible as members of the Legislative Assembly.

VI. *And be it enacted*, That in case of the illness or unavoidable absence of the Judge of any such District Court, it shall be lawful for such Judge to appoint some other person who would be otherwise qualified to be appointed a judge of such District Court, to act as his Deputy, and every person so appointed, shall during the time for which he shall be so appointed, have all the powers and privileges, and be subject to all the duties of the Judge by whom he shall have been so appointed: and notice of every such appointment shall be forthwith sent by the Judge or Deputy Judge to the Governor of this Province, and such notice shall specify the name, residence and profession of the Deputy Judge and the cause of his appointment, and no such appointment shall be continued for more than one calendar month without a renewal of the like notice; and it shall be lawful for the Governor to annul any such appointment of which he shall disapprove.

The Judge of any District may appoint a deputy in certain cases.

Such appointment to be notified to the Governor, who may amend it.

VII. *And be it enacted*, That for every Court holden under the authority of this Act, there shall be a Clerk and one or more Bailiffs, and the Judge of the District Court shall from time to time appoint, and at his pleasure remove the Clerk and Bailiffs of the Courts holden by him.

A Clerk and Bailiffs to be appointed for each Division Court by the Judge.

VIII. *And be it enacted*, That it shall be lawful for the Clerk of any such Division Court (with the approval of the Judge thereof) to appoint from time to time, a Deputy to act for him in the office of Clerk of the Court, at any time when he shall be prevented by illness or other unavoidable accident from acting in such office, and to remove such Deputy at his pleasure; and such Deputy during the time for which he shall be so appointed, shall have the like powers and privileges, and be subject to the like duties as if he were the Clerk of the Court for the time being; and the Clerk of the Court shall be civilly responsible for all the acts and omissions of his Deputy.

Clerk in case of illness to appoint a Deputy.

IX. *And be it enacted*, That the Treasurer of every District shall be the Receiver General of fees of the several Division Courts within his District; and every such Treasurer shall be paid a per centage of three pounds on every hundred pounds of the gross produce of the fees of the Courts of which he is Receiver General, and every Judge and Clerk shall be paid by a certain salary; the salary of a Judge being in no case more than two hundred pounds or less than one hundred pounds and the

District Treasurer to receive all fees payable in Division Courts in his District.

Judges and Clerks to be paid by certain salaries.

Bailiffs by the fees allowed them. Salaries of Judges and Clerks how to be fixed.

salary of a Clerk being in no case more than one hundred pounds or less than twenty pounds; and the Bailiffs of the Court shall be paid by the fees hereby allowed to them: and the Governor in Council shall fix the remuneration to be paid to the Judges and Clerks; having due regard to the population of the several Districts and Divisions; and the remuneration to be paid to the Judges and Clerks, may be increased, or as vacancies shall occur, may be diminished by the same authority by which they shall be first fixed.

Certain duties of the Clerks of Division Courts prescribed.

X. *And be it enacted*, That the Clerk of each Division Court shall issue all summonses, warrants, precepts, and writs of execution, and register all orders and judgments of the Court, and keep an account of all such summonses, executions, and other process of the Court, and shall take charge of and keep an account of all Court fees and fines payable or paid into Court, and of all suitors' money paid into and out of Court, and shall enter an account of all such fees, fines, and monies in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same, on payment of one shilling for each search, and shall from time to time, at such times as shall be directed and appointed by the Governor, submit his accounts to be audited or settled by the Treasurer of his District; and the Bailiffs of the Court shall serve all summonses and execute all such orders, warrants, precepts and writs.

Duties of Bailiffs.

Certain fees to be payable on proceedings in any Division Court.

XI. *And be it enacted*, That there shall be payable on every proceeding in the Division Courts holden in pursuance of this Act, and to the Bailiffs of the Court, such fees as are set down in the Schedule to this Act annexed, or which shall be set down in any Schedule of reduced fees under the power hereinafter given for that purpose, and none other; and a table of such fees shall be hung up in some conspicuous place in the Offices of the several Clerks of Division Courts, and the fees on every proceeding shall be paid in the first instance by the Plaintiff on or before such proceeding, and the Bailiff's fees upon executions shall be paid to the Clerk of the Court at the time of the issue of the warrant of execution, and shall be paid over by such Clerk to the Bailiff upon the return of the warrant of execution and not before. Provided always, that if the Bailiff shall neglect to make a Return within the time required by Law of any summons, process, or execution, he shall for each such neglect forfeit his fees on such summons, process, or execution, and all fees so forfeited shall be accounted for and paid by the Clerk of the Court to the Treasurer of the District, to form part of the general fee fund.

Tables of Fees to be posted in the Clerk's Offices.

Bailiff's fees on executions, how paid.

Clerks of Division Courts to render accounts to the District Treasurer of all fees by them received under this Act.

XII. *And be it enacted*, That the Clerk of each Division Court shall from time to time, and as often as he shall be required so to do by the Treasurer of his District, and at least once in every three months, deliver to him a full account in writing of the fees received in such Court under the authority of this Act, and a like account of all fines levied by the Court, (accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may have made out of any such fine in pursuance of the power hereinafter given,) and a like account of the monies paid into and received out of Court by the Defendants and Plaintiffs in the said Court, under any orders and decrees of the Court, or under process of the Court, and of the balance then remaining in Court belonging to the Plaintiffs or Defendants in the Court; and the amount of such fees from time to time received by such Clerk, shall be paid over from time to time to the Treasurer, (such payment being made at least once in every three months) and shall form part of a fund to be called the general fee fund of the Division Courts, which fund shall be applied towards the payment of the salaries of the Judge and Clerks of such Courts.

And to pay over the amount so received.

Application of monies so paid over.

XIII. *And be it enacted*, That the Treasurer of every District shall, on or before the thirtieth day of June and the thirty first day of December, in every year, render to the Inspector General of this Province, a true account in writing of all monies received and of all monies disbursed by him, on account of the Division Courts holden under the authority of this Act during the period comprised in such account, in such form and with such particulars as the said Inspector General shall from time to time require, and shall within ten days after the rendering of every such account, pay over the amount of any surplus of such fees to the Receiver General of this Province; and if default shall be made in such payment, the amount due by the said Treasurer shall be deemed a specialty debt to Her Majesty.

District Treasurers to render accounts to the Inspector General of monies received by them under this Act.

And to pay over to the Receiver General any balance in their hands.

XIV. *And be it enacted*, That in case the amount of fees received in the Division Courts in any District, shall not be sufficient to defray the disbursements required on account of such Courts, during the period comprised in the said account, it shall be lawful for the Governor of this Province, forthwith to issue his warrant on the Receiver General of this Province, in favour of the District Treasurer, for the amount which shall be required to make up the salaries of the Judge and Clerks, and the amount of such warrant shall be charged upon the consolidated fund of this Province.

If the sums so paid over for any District be not sufficient to meet the expenses of the Division Courts therein, the Governor may issue his warrant for the difference.

XV. *And be it enacted*, That the accounts to be kept by the several Treasurers on account of the said Courts, shall be deemed Public Accounts, and shall be inquired into and audited, and shall be within any provision of law now or hereafter to be in force for auditing Public Accounts.

Treasurers accounts touching Division Courts to be deemed public accounts.

XVI. *And be it enacted*, That if any person having resigned or having been removed from the office of Treasurer, or of Clerk of a Division Court, shall neglect after twenty one days notice to such person, to account for and pay to the Treasurer of the District for the time being or to such person as he shall appoint to receive the same, all such sums as shall remain in his hands of monies received under the authority of this Act, it shall be lawful for such Treasurer for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person with double costs of suit, in any Court of Record in this Province having competent jurisdiction, by action of debt; in which action it shall be sufficient for such Treasurer to declare as for money had and received to the use of such Treasurer for the purposes of this Act; and the Court in which the action shall be brought, may at the instance of either of the parties, refer the account in dispute in a summary manner, to be audited by any Officer of the Court or other fit person, who shall have power to examine both plaintiff and defendant upon oath; and upon the report of the referee (unless either of the parties shall shew good cause to the contrary) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered up as by confession for such sum as upon the report shall appear to be due.

Any persons removed from the office of Treasurer or of Clerk of a Division Court, to account and pay over any monies in hands under this Act after a certain notice.

Action given to the then Treasurer in default of such account and payment.

Court may refer the account (if disputed) to a referee.

And make certain orders on the report of such referee.

XVII. *And be it enacted*, that in case of the death of any person during the time that he shall be holding the office of District Treasurer or of Clerk of any Division Court, or after he shall have resigned, or be removed from such office, the Treasurer for the time being, may in his own proper name only, or by his name and description of office, sue for and recover from the Executors or Administrators of such person deceased, all such sums as shall have been remaining in his hands, of money received under the authority of this Act, by an action

In case of death or removal of District Treasurer or Clerk of any Division Court the then District Treasurer may recover by action monies received under this Act and remaining in their hands.

of debt, in any Court of Record in this Province having competent jurisdiction; in which action it shall be competent for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act whereby an action hath accrued to the plaintiff to demand and have the same from such Executors or Administrators; and a like action may be brought against any Executors or Administrators of Executors, or Administrators: and all such actions, the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence as in any action founded upon simple contracts of the original testator or intestate; and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

The Court may refer the disputed account to any person.

The Plaintiff acting as Treasurer to be *prima facie* evidence of his holding that Office.

XVIII. *And be it enacted*, that in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on by any Treasurer, by virtue of this Act, proof of his acting in the execution of the office of Treasurer, shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted and carried on.

The Treasurer and Clerks of Division Courts to give security.

XIX. *And be it enacted*, that the treasurer, and also every clerk and bailiff, who shall receive monies in the execution of their duty, shall give security for such sum, and with so many sureties, and in such manner and form as the Governor of this Province shall see reason to direct, for the due performance of their several offices, and for the due payment of all monies received by them under any provision of this Act.

Of what cases the Division Courts shall take cognizance. Sums certain payable in goods, &c.

XX. *And be it enacted*, that the Judge of every Division Court established under this Act, shall have power, jurisdiction, and authority to hold plea of all debts and contracts when the subject matter of the demand shall not exceed the sum of ten pounds, and to hear and determine the same in a summary way; and every such Judge shall have power to make such orders, judgments, and decrees thereupon, as shall appear to him to be just and agreeable to equity and good conscience; and that upon any contract for the payment of a sum certain in labour, or in any kind of goods or commodities, or in any manner otherwise than in money, it shall be lawful for the Judge, after the day is passed on which the goods or commodities should have been delivered or labour or other things performed, to give judgment for the amount in money, as if the contract had been so originally expressed: *Provided always*, that no action shall be brought or tried in any such Division Court, for any gambling debt, nor for any spirituous or malt liquors drunk in a tavern or ale-house, nor for any cause involving the right or title to real estate: *Provided also*, that nothing in this Act contained shall be construed to constitute and create the said Division Courts, Courts of Record.

Proviso.

Mode of commencing action in any Division Court.

XXI. *And be it enacted*, that the plaintiff, in any suit brought in any Division Court, shall enter a copy of his account or demand in writing, which shall be numbered according to the order in which it shall be entered, and thereupon a summons bearing the number of the account or demand on the margin thereof, shall be issued, which shall be in substance, in the form of the schedule to this Act annexed, according to the nature of the demand; and a copy of such summons, to which shall be attached a copy of such account or demand, shall be served on the defendant, eight days at least before the day on which the Division Court shall be holden at which the cause shall be tried; and delivery of such copies of summons and account or demand to the

Service of the Summons.

defendant, or delivery thereof to his wife or servant or any grown person, being an inmate of his dwelling house or usual place of abode, trading or dealing, shall be deemed a good service of such summons. *Provided always*, that personal service on the debtor of such summons shall be necessary in all cases where the amount sued for exceeds the sum of forty shillings.

XXII. *And be it enacted*, that no such summons shall be issued, unless the plaintiff shall, at the time of entering his account or demand, deposite with the Clerk of the Court, for every claim not exceeding twenty shillings, the sum of one shilling, and for every claim exceeding twenty shillings, one twentieth part thereof (neglecting any sum less than six-pence, in estimating such twentieth part,) and if, upon the day of the return of any such summons, or at any continuation or adjournment of the said Court, or of the cause for which the said summons shall have issued, the plaintiff shall not appear in person, or by some other person in his behalf, or appearing, shall not make proof of his demand to the satisfaction of the Court, it shall be lawful for the Judge, if he shall think fit, to award to the defendant a part or the whole of such deposite money, by way of costs, and as satisfaction for his trouble and attendance, with such further sum as the Judge in his discretion shall think fit, and to order and compel the plaintiff to pay such further sum, by such ways and means as any debt ordered to be paid by the same Court, can be recovered; but so much of the said deposite money as shall not be awarded to the defendant, shall be returned on demand to the plaintiff.

Plaintiff taking out any Summons to deposite with the Clerk one twentieth part of the sum demanded.

The Judge may, in certain cases, award the whole or part of the sum so deposited to the Defendant.

Money so deposited and not so awarded to be returned.

XXIII. *And be it enacted*, that all suits brought under this Act, shall be tried at the Court holden for the Division wherein the defendant, or where there shall be more than one defendant, wherein any one of the defendants shall dwell, or carry on his business at the time of entering the account or demand, or at the Court holden for the division within which the debt was contracted.

At what Division Courts any suit may be brought.

XXIV. *And be it enacted*, that it shall not be lawful for any plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of any Division Court, but any plaintiff having a cause of action above the value of ten pounds for which a suit might be brought under this Act, if the same were not above the value of ten pounds, may abandon the excess, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding ten pounds, and the judgment of the Court upon such suit shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment shall be made accordingly.

Any Plaintiff having a cause of action above the value of £10 may abandon the excess, and so bring the suit within the jurisdiction of a Division Court.

XXV. *And be it enacted*, that it shall be lawful for any person under the age of twenty one years, to prosecute any suit in a Division Court, under this Act, for any sum of money not exceeding ten pounds, which may be due to him or her for wages, in the same manner as if he or she were of full age.

Minors may sue for wages in the Division Court.

XXVI. *And be it enacted*, that no privilege shall be allowed to any person to exempt him from the jurisdiction of the Courts created by this Act.

No privilege to exempt any person from the jurisdiction of a Division Court.

XXVII. *And be it enacted*, that where any plaintiff shall have any debt or demand recoverable under this act, against two or more persons, partners in trade or otherwise, jointly answerable, but residing in different divisions, it shall be sufficient if one of such persons be served with the process as hereinbefore directed, and judgment may be obtained, and execution issued against such person, notwithstanding others jointly liable may not have been served or sued; reserving always to the person against whom execution may issue, any right which he may have to demand contribution from any other person jointly liable with him.

Debts due by partners or persons jointly answerable may be recovered from one of them, saving his recourse.

The Judge of the District Court to be the sole Judge in matters decided in Division Court.

XXVIII. *And be it enacted*, that the Judge of the District Court, or his Deputy as aforesaid, shall be the sole Judge to determine all actions brought in the said Division Courts, in the summary manner authorized by this Act, and all matters and questions of fact relating thereto, except when the amount claimed shall exceed two pounds ten shillings, and either of the parties shall require a jury to be summoned, as hereafter mentioned.

Where the sum claimed shall exceed £2 10 0, a jury may be required.

Proviso.

Notice in writing to be given by the party requiring the Jury.

XXIX. *And be it enacted*, that in all actions where the sum of money sought to be recovered shall exceed two pounds ten shillings, it shall be lawful for the Plaintiff or Defendant to require a jury to be summoned to try the said action, and in every such case a jury shall be summoned according to the provisions hereinafter contained, to try such action: Provided always, that if the Plaintiff require a jury to be summoned, he shall give notice in writing to the Clerk of the said Court at the time when he shall enter his account or demand, and if the Defendant shall require a jury to be summoned, he shall give to the said Clerk, or leave at the office of the said Clerk, the like notice in writing within five days after the service of the summons on the said Defendant, and the said Clerk shall cause a copy of such notice given either by the Plaintiff or Defendant, to be communicated to the opposite party in the said action, either by post or by causing the same to be delivered at his usual place of abode or business, but it shall not be necessary for either party to prove on the trial that such notice was communicated to the other party by the Clerk.

The party on giving notice shall pay to the Clerk such sum as is set down in the schedule of fees.

XXX. *And be it enacted*, that every party requiring any jury to be summoned shall at the time of giving the notice hereby required, and before he shall be entitled to have such jury summoned pay to the Clerk of the said Court, such sum of money as is set down in the schedule of fees, for the time being, for or towards the payment of the expenses of the said jury.

Causes to be set down in the "Judge's list."

Causes to be set down in the "Jury's list."

XXXI. *And be it enacted*, that the causes which are to be heard by the Judge alone shall be set down for hearing in a separate list from the list of causes which are to be tried by a jury, which two lists shall be severally called, "The Judge's List," and "The Jury List," and the causes shall be set down in such lists in the order in which they were entered in the first instance with the Clerk of the Division Court, and "The Jury List," shall be first disposed of, and then "The Judge's List."

The Clerk of the Peace to deliver to the Clerk of the Court list of Jurors.

Proviso.

Either party entitled to his lawful challenge.

Where Clerk of Division Courts may summon fifteen resident inhabitant householders.

XXXII. *And be it enacted*, that the Clerk of the Peace in every District shall deliver, or cause to be delivered, to the Clerk of each Division Court within his District (at the same times, and in like manner as Clerks of the Peace are now required by law to deliver lists of Jurors to the several Sheriffs) a true and complete list of the jurors residing within every such division, respectively, and the Clerk of each Division Court shall cause not less than fifteen of the persons named in such list to be summoned in rotation to attend the Court at the time and place to be mentioned in the summons: Provided always, that either of the parties to any such cause shall be entitled to his lawful challenge against any of the said jurors in like manner as he would in any Superior Court: Provided also, that if any jury shall be required to be summoned before the Clerk of the Peace shall have delivered the list of jurors, as aforesaid, to the Clerks of the several Division Courts in his District, the Clerks of such Division Courts shall cause to be summoned not less than fifteen resident inhabitant householders who are rated and assessed upon any township assessment roll within his division.

XXXIII. *And be it enacted*, that each juror shall receive from the Clerk of the Division Court out of the monies to be deposited with him for that purpose the sum of six pence for every cause in which such jurymen shall be sworn.

Each Jurymen to receive six-pence for every cause in which he shall be sworn.

XXXIV. *And be it enacted*, that from time to time, as occasion shall require, five jurors shall be empanelled, and sworn to do justice between the parties whose cause they shall be required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and each cause shall be decided by the verdict of the majority of the jury so empanelled and sworn; and any jurymen who after being duly summoned for that purpose as aforesaid shall wilfully neglect or refuse to attend the Court, shall be liable to a fine not to exceed ten shillings to be set on him by the Judge, which fine shall be levied and collected as other fines are hereinafter directed to be levied and collected, and shall form part of the general fee fund to be paid to the Treasurer of the District.

Five Jurors to be empanelled and sworn.

Each cause to be decided by the majority of the Jury.

Any Jurymen neglecting or refusing to attend to be fined.

XXXV. *And be it enacted*, that on the day named in the summons, the Plaintiff shall appear in the Division Court, in person, or by some person in his or her behalf, and thereupon the Defendant shall be required by himself or herself, or by some person on his or her behalf, to answer; and on answer being made in Court, the Judge shall proceed in a summary way to try the cause and give judgment without further pleading or formal joinder of issue.

Proceedings on the day at which the Defendant shall be summoned to appear.

XXXVI. *And be it enacted*, that no evidence shall be given by the Plaintiff, on the trial of any such cause as aforesaid, of any cause of action except such as shall be stated and contained in the demand or account entered as herein before directed.

No cause of action to be proved except that mentioned in the demand.

XXXVII. *And be it enacted*, that all defendants shall be allowed to set off any debt or demand not exceeding ten pounds claimed to be due to them from the plaintiff, or to set up, by way of defence, and to claim and have the benefit of any statute of limitation, or of any other relief or discharge under any statute, now or hereafter to be in force in Canada West: *Provided always*, that if the defendants demand as proved, exceed that proved by the plaintiff, the Court may give judgment in favour of the defendant for such balance as may appear due from the plaintiff, with costs of suit: *Provided also*, that no such defence shall be admitted on the hearing or trial of any cause under this Act, unless notice thereof in writing shall have been delivered to the plaintiff, or left for him at his usual place of abode or business, three days at least before the trial.

Defendant may plead set off, &c.

And may recover any balance due to him by the Plaintiff.

Proviso.

XXXVIII. *And be it enacted*, that the Judge of the District Court shall have power from time to time, to make general rules for regulating the practice and proceedings of the said Division Courts, and also to frame forms for every proceeding in the said Courts, for which he shall think it necessary that a form be provided, and from time to time to alter any such form, and also to alter all or any of the forms given in the Schedule to this Act: *Provided always*, that such rules and forms so made, framed or altered, shall not be brought into use until the same shall have been submitted to and approved by the Chief Justice and Judges of the Court of Queen's Bench, for that part of this Province formerly called Upper Canada, or any two of them.

The District Judge may make Rules of practice and forms for the Division Courts.

Proviso.

XXXIX. *And be it enacted*, that if on the day named in the summons the defendant shall not appear as aforesaid, or sufficiently excuse his or her absence, or shall neglect to answer, the Judge, on proof of due service of the summons, may proceed to the hearing or trial of the cause on the part of the plaintiff only, and the order, verdict or judgment thereupon which shall be given, made or rendered after hearing the civi-

Proceedings if the Defendant shall make default.

The Judge may give time for the prosecution or defence of any suit.

Defendant may pay money into Court before the day on which he is summoned to appear.

Duty of the Clerk in such case.

Consequence of such payment.

Defendant to have costs if no greater sum than that paid in be recovered by the Plaintiff.

All credible persons, including the parties to any suit, may be examined on the trial.

Proviso.

False swearing or affirmation to be perjury.

Either parties may obtain subpoenas for witnesses.

Who may serve such subpoenas; obligation of the party so served.

Tender of expenses.

dence to be adduced on the part of the plaintiff shall be final and absolute and as valid as if both parties had attended. *Provided always*, that the Judge may make any order for granting any time to the plaintiff or defendant to proceed in the prosecution or defence of the suit.

XL. *And be it enacted*, that it shall be lawful for the defendant in any action brought under the provisions of this Act, at any time before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment; and notice of such payment shall be forthwith communicated by the clerk of the said court to the plaintiff, by post or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the plaintiff, and all proceedings in the said action shall be stayed, unless the plaintiff shall within three days after the receipt of notice of such payment signify to the clerk of the said court, his intention to proceed for the remainder of the demand claimed; and in such case the action shall proceed as if it had been brought originally for such remainder only: *Provided always*, that if the plaintiff shall recover no further sum in the action than such sum as shall have been paid into court under the provision hereinbefore contained, the plaintiff shall pay to the defendant all costs, charges, and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the court, and shall be recovered by the defendant by such ways and means as any debt ordered to be paid by the court can be recovered.

XLI. *And be it enacted*, that on the trial of any such suit, the parties thereto, being credible persons, and all other credible persons whosoever, may be examined upon oath or affirmation (being of any of the classes allowed by law to affirm in any judicial proceedings) which the Judge shall openly administer to each party or witness at the time of his giving his evidence touching the matters in dispute, without regard to any objection on the ground of incompetence from interest or otherwise; *Provided always*, that judgment shall in no case be given for either party in any action for any sum on the oath or affirmation of the plaintiff or defendant respectively, without other sufficient evidence.

XLII. *And be it enacted*, that every person who in any examination shall wilfully and corruptly give false evidence, shall be liable to the penalties of perjury.

XLIII. *And be it enacted*, that either of the parties to the suit may obtain from the clerk of the division court, wherein the same shall be brought, summons to witness, with or without a clause requiring the production of books, papers and writings in their possession or control; and in any such summons any number of names may be inserted, and service of any such summons by the bailiff of any other division court, shall be as valid and effectual as if the same had been served by a bailiff of the court out of which the same issued; and every person on whom any such summons shall have been served, either personally, or at his or her usual place of abode, and to whom at the same time, a tender of payment of his or her expenses shall have been made, on such scale of allowance as shall from time to time be settled by the Judge, and approved by a Judge of the Court of Queen's Bench of that part of the Province formerly called Upper Canada, and who shall refuse or neglect without sufficient cause, to appear or to produce any books, papers, or writings required by such summons to be produced, and also every person in court called upon to give evidence, who shall refuse to be sworn and give evidence, shall forfeit and

pay such fine not exceeding ten shillings as the Judge shall set on him or her ; and such fine shall be recoverable in any division court (in whatever district it may be) in the jurisdiction of which the party so refusing shall be ; and the whole or any part of such fine, in the discretion of the Judge (after deducting the costs) shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the general fee fund before mentioned : Provided that no person shall be compelled to attend as a witness who shall dwell more than forty miles from the place where the court is to be holden, at which he or she is summoned to attend.

Penalty on witnesses refusing to attend or to give evidence.

Proviso.

XLIV. *And be it enacted*, that any fine imposed under the authority of this Act, may be levied by the same process as any debt recovered in the said Court, and shall be accounted for as herein provided.

How fines imposed under this Act may be levied.

XLV. *And be it enacted*, that no action brought in any Division Court holden according to the provisions of this Act, nor any order, verdict, judgment or proceeding therein, shall be removed into any superior court by any writ or process whatsoever, but every such order, verdict and judgment made by the Judge in any Division Court shall be final and conclusive between the parties.

No suit brought in any Division Court to be removed.

Exception.

XLVI. *And be it enacted*, that the clerk of each division court shall cause a note of all summonses, and of all orders, and of all judgments and executions, and returns thereto, to be fairly entered from time to time in a book which shall be kept at his office ; and the clerk shall sign his name on every page of such book ; and such entries in the said book so signed, or a copy thereof purporting to be signed and certified as a true copy by such clerk, shall at all times be admitted in all courts and places whatsoever, as evidence of such entry or entries and of the proceeding referred to by such entry or entries, without any further proof.

Certain process and proceedings to be entered by the Clerk.

Entries and copies thereof to be evidence.

XLVII. *And be it enacted*, that the Judge may make orders concerning the time or times, and the proportions in which any sum and costs recovered by judgment of the said court, shall be paid, and at the request of the party entitled to the same, may order such sums to be paid into court : *Provided always*, that in any such order for time, reference shall be had to the day on which the summons was served on the defendant, and issuing of execution shall not be postponed without the consent of the party entitled to the same, for a longer period than fifty days from the service of the summons.

Judge may grant delay for the payment of sums recovered by judgment.

Such delay not to exceed a certain time.

XLVIII. *And be it enacted*, that if there be cross judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal satisfaction shall be entered upon both judgments.

What shall be done when there are cross judgments between the parties.

XLIX. *And be it enacted*, that no suit shall be brought in any court for the recovery of any sum awarded by any judgment in a division court held under this Act.

No suit to be brought in another Court for a sum awarded in a Division Court.

L. *And be it enacted*, that whenever the judge of any division court shall have made an order for the payment of money, it shall be lawful for the said judge immediately, or in case of default or failure of payment thereof, at the times, and in the manner thereby directed, to award execution against the goods and chattels of the party against whom such order shall be made ; and thereupon the clerk of the court, at the request of the party prosecuting such order for the payment of money, shall issue a precept in the nature of a writ of *fieri facias*, to one of the bailiffs of the court, who, by virtue of such precept, shall

Execution, how to be granted and enforced.

levy by distress and sale of the goods and chattels of such party, being within the district in which the said court was holden, such sum of money and costs as shall be so ordered, and shall pay the same over to the said clerk.

In case the Bailiff shall not find goods in his District, he may apply to a Justice in any other District.

How such Justice may proceed.

LI. *And be it enacted*, that it shall be lawful for any bailiff of a division court to whom a precept of execution shall be directed against the goods of any defendant according to the provisions of this Act in case he shall not find sufficient goods or chattels of the defendant within the district in which such division court is holden, to apply to any Justice of the Peace acting for and within any other district in this province in which the goods and chattels of such defendant shall be and such Justice of the Peace is hereby authorized and required upon such bailiff producing the precept and making oath (which such Justice is hereby empowered to administer) that the same has been duly issued out of the said division court and that the goods and chattels of the defendant are not to be found within the district in which such division court is held but are believed by such officer to be within the district where such Justice acts, to sign his name on the back of such precept and thereupon such bailiff shall have power to take the goods and chattels of such defendant wheresoever the same shall be found within such district and deal therewith in like manner as if the same had been taken within the jurisdiction of the said division court, and all constables and other peace officers are hereby required to be aiding within their respective jurisdictions in the execution of the precept so endorsed.

At least eight days public notice of any sale under execution shall be given, unless the defendant shall request that the sale take place sooner.

LII. *And be it enacted*, that no sale of any goods which shall be taken in execution as aforesaid, shall be had until after the end of eight days at least next following the day on which such goods shall have been so taken, unless upon the request in writing under the hand of the party whose goods shall have been taken; and public notice in writing shall be given at some convenient place within the town or township where such goods were taken, of the time and place of such sale, at least eight days before the same shall take place.

Seizures and sales under this Act to be within the provisions of the Act 1 Vict., Cap. 16.

LIII. *And be it enacted*, that every such seizure and sale shall be taken to be within all the provisions of an Act of the Parliament of Upper Canada, passed in the first year of Her Majesty's Reign, intituled, "An Act to regulate the costs of levying distresses for small "rents and penalties."

Precepts of execution to be endorsed with the sum to be levied.

LIV. *And be it enacted*, that upon every precept of execution awarded against the goods and chattels of any person whomsoever, the Clerk of the Division Court, out of which such execution shall issue, shall cause to be endorsed the sum of money and costs adjudged; and if the party against whom such execution shall be awarded, shall before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk or Bailiff of such Court such sum of money as aforesaid, or such part thereof as the plaintiff shall agree to accept in full of his debt, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels shall be released and restored to the said party.

If such sum and certain fees be paid, the execution shall be suspended.

Persons insulting the Judge, or wilfully interrupting the proceedings of the Court, liable to be taken into custody and fined.

LV. *And be it enacted*, that if any person shall wilfully insult the Judge or any Officer of any Division Court, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of such Court, it shall be lawful for any bailiff or Officer of the Court, with or without the assistance of any other person, by order of the Judge, to take such offender into custody, and the Judge may impose upon any such offender, a fine not exceeding the sum of two pounds, and in default of payment thereof it shall be lawful for the said Judge by warrant under his hand and seal to cause such fine to be levied by

distress and sale of the Goods of the offender together with the reasonable charges of such distress and sale, and in default of such distress to commit the offender to the Common Gaol of the District for any period not exceeding one Calendar month.

LVI. *And be it enacted*, that if any Bailiff or Officer of any Division Court, acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him, under the authority of this Act, it shall be lawful for the Judge, at any sitting of the Court, if the party aggrieved shall think fit to complain to him, to enquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of such damages and costs to the parties aggrieved, as the Judge shall think just; and in default of payment of any money so ordered to be paid by such Bailiff, within the time specified for the payment thereof in such order, it shall be lawful for the Judge, by warrant under his hand and seal, to cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of such distress and sale, and in default of such distress, to commit the offender to the Common Gaol of the District, for any period not exceeding three calendar months.

If any Bailiff, or Officer of any Division Court, be guilty of extortion under colour of its process, the Judge may inquire summarily into the case, and may order the money extorted to be refunded, and set such fine on the offender as to such Judge may seem meet.

LVII. *And be it enacted*, that if any Clerk, Bailiff, or other Officer employed in putting this Act, or any of the powers thereof into execution, shall exact, take, or accept any fee or reward whatsoever, other than, and except such fees as are or shall be appointed and allowed respectively, as aforesaid, for or on account of any thing done or to be done by virtue of this Act, or on any account whatsoever, relative to putting this Act into execution, every such person so offending shall, upon proof thereof before the said Court, be for ever incapable of serving or being employed under this Act, in any office of profit or emolument, and shall also be liable in damages to the party aggrieved.

Clerks, Bailiffs, or other Officers, taking any greater fees than those allowed by this Act, to be incapable of holding office, and also liable in damages.

LVIII. *And be it enacted*, that in case any action shall be prosecuted after the commencement of this Act, in any superior Court of Record, for any cause which might have been entered in a Division Court under this Act, and the verdict shall be found for the plaintiff for a sum not exceeding ten pounds, such plaintiff shall have judgment to recover such sum only, and no costs, and shall have execution only against the goods and chattels of the defendant and shall not at any time be allowed to maintain any action on such judgment, in any Court, and if a verdict shall not be found for the plaintiff, the defendant shall be entitled to his costs as between Attorney and Client, unless in either case, the Judge who shall try the cause shall certify on the back of the record, that the plaintiff had a probable cause of action for the debt or damages sought to be recovered in such action, to an amount exceeding ten pounds.

If any action which might be brought in a Division Court shall be brought in any superior Court of Record, and the Plaintiff shall not have verdict for more than £10, he shall have no costs.

Exception.

LIX. *And be it enacted*, that when any levy or distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same, be deemed a trespasser or trespassers, on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto; nor shall the party or parties distraining, be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall afterwards be committed by the party or parties so distraining, but that the person or persons aggrieved by such irregularity, shall and may recover full satisfaction for the special damage.

Informalities in any part of the previous proceedings shall not make a person levying and distress a Trespasser. Nor shall any subsequent irregularity make any such person a trespasser from the beginning.

No proceedings to be vacated for want of form.

Action for any thing done in Execution of this Act, where to be commenced, and where notice of such action to be given.

Tender of sufficient amends or payment of a sufficient sum into Court to be bar.

LX. *And be it enacted*, that no order, verdict, or judgment, or other proceedings made concerning any other matters aforesaid, shall be quashed or vacated for any matter of form.

LXI. *And for the protection of persons acting in the execution of this Act, be it enacted*, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within six calendar months after the fact was committed and not afterwards or otherwise; and notice in writing of such action, and of the cause thereof shall be given to the Defendant, one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the Defendant.

LXII. *And be it enacted*, that in construing this Act, the word "person" shall be taken to comprehend a body politic or corporate as well as an individual; and that every word importing the singular number, shall when necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things, as well as one person or thing; and that every word importing the masculine gender shall where necessary extend and be applied to a female as well as a male; and that the words "Canada West" shall be taken to mean that portion of the Province formerly constituting the Province of Upper Canada.

LXIII. *And be it enacted*, that this Act shall be and continue in force for four years from and after the passing of this Act, and from thence to the end of the then next ensuing Session of Parliament and no longer.

SCHEDULE REFERRED TO IN THIS ACT.

SUMMONS.

Demand, £

Costs

The ——— Division Court of the District of ———

You are hereby summoned to appear at the next sitting of this Court to be holden at ——— on ——— the ——— day of ——— at ——— of the clock of the same day, to answer to the complaint of ——— who claims from you payment of the account a statement whereof is hereto annexed; and in case you fail to appear by yourself or some person on your behalf, the Plaintiff will obtain Judgment and Execution against you by your default.

Take notice that if you require a Jury to be Summoned to try this cause, you must give notice to the Clerk of this Court, or leave at his Office, at ——— notice thereof in writing within five days after service of the Summons upon you.

Take notice that if on the trial of this cause you mean to set off any debt which you claim to be due to you from the Plaintiff in this cause, or to take the benefit of any Statute of limitation or other Statute, you must give to the Clerk, or leave at his office, notice in writing thereof ——— days at least before the said ——— day of ———

Dated the _____ day of _____ in the year of Our Lord One thousand Eight hundred _____

Entered No

By the Court.

Clerk.

To Mr _____ the Defendant.

SUMMONS TO A WITNESS.

The _____ Division Court of the District of _____

To

You are hereby Summoned to appear at the sittings of the said Court to be holden at _____ on _____ the _____ day of _____ at _____ o'clock of the same day to give evidence on the part of the _____ in cause between _____ Plaintiff and _____ Defendant.

Dated the _____ day of _____ One thousand Eight hundred _____

By the Court.

Clerk.

Absolute Order for payment of a sum recovered.

The _____ Division Court of the District of _____ holden on &c.

Between _____ Plaintiff, and _____ Defendant.

It is ordered, that the Defendant do pay to the Plaintiff the sum of £_____ debt and _____ costs on the _____ day of _____ next, after notice of this Order.

Entered

By the Court.

Clerk.

Absolute Order for payment of a sum recovered by Instalments.

The _____ Division Court of the District of _____ holden on &c.
Between _____ Plaintiff, and _____ Defendant.

It is ordered, that the Defendant do pay to the Plaintiff the sum of £_____ on the _____ next, after the date of this order, and the further sum of £_____ on every following _____ until payment of the full sum of £_____ debt and _____ costs be satisfied.

Entered

By the Court.

Clerk.

Precept or Warrant against Goods.

Debt, £_____

The _____ Division _____

Costs, _____

Court of the District of _____

£_____

Paid £_____

To _____

Levy £_____

A Bailiff of the said Court.

You are hereby commanded to levy and cause to be made of the Goods and Chattels of ——— the sum of £——— and your lawful fees on the execution of this Procept, so that you have the said money within twenty days after the receipt hereof; and pay the same to the Clerk of the Court to satisfy ——— for the debt and costs adjudged to ——— by the said Court.

Therein fail not at your peril.

Given under my Hand and Seal this ——— day of ——— One thousand Eight hundred ———

Judge of the said Division Court.

SCHEDULE OF FEES.

	Not ex- ceeding 40s.	Not ex- ceeding £5.	Exceed- ing £5.
	D.	S. D.	S. D.
Entering Account and issuing Summons,.....	0 9	1 3	2 0
Summons to Witness to attend,.....	0 6	1 0	1 6
Every hearing of a Cause,.....	1 0	1 6	2 0
Every Order for payment,.....	0 6	1 0	1 6
Every Execution, ...	0 6	1 0	1 6
Every Notice for a Trial by Jury,.....	0 0	0 0	1 6
Deposite to pay Jurors and Bailiff's Fees thereon, ..	0 0	0 0	3 6

TO THE BAILIFF.

	S. D.
For the service of every Summons, Order or other proceeding on each person,.....	0 6
For taking Goods in execution,.....	2 0
For every Mile travelled more than two from the Clerk's Office to serve Summons or execute Warrant,.....	0 4
For every Mile travelled in taking any person committed for Contempt to Goal,.....	0 6
For every Jury sworn,.....	1 0
To be paid by the Clerk out of the Deposite made.	

IMPORT DUTIES ACT.

AN ACT,

To repeal certain Acts therein-mentioned, and to consolidate the Laws relating to the Provincial Duties to be levied on Goods, Wares and Merchandize, imported into this Province.

[Passed 18th September, 1841.]

MOST GRACIOUS SOVEREIGN:

WHEREAS, it would be of advantage to the Trade and Commerce of this Province that the several Provincial Acts imposing rates and duties on certain Goods and Articles imported into this Province, should be consolidated into one Act, under which all Provincial Duties imposed on such Goods and Articles may be levied with such amendments to certain provisions of the said Acts as will facilitate Commerce, advance the public good, and contribute to the public improvements of this Province. May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That this Act shall commence and take effect upon, from and after the first day of January next.

II. *And be it enacted*, That the several Acts hereinafter mentioned, and referred to, that is to say—A certain Act made and passed by the Parliament of the Province of Lower Canada, in the thirty-third year of the Reign of his late Majesty King George the Third, and intituled, "An Act to establish a Fund for defraying the Salaries of the different Officers of the Legislative Council and Assembly, together with the Contingent Expences thereof," and another certain Act of the said Parliament, passed in the thirty-fifth year of the same Reign, and intituled, "An Act for granting to His Majesty an additional and new Duties on certain Goods, Wares, and Merchandises, and for appropriating the same towards further defraying the charges of the Administration of Justice, and the support of the Civil Government within this Province, and for other purposes therein mentioned," and another certain Act of the said Parliament, passed in the forty-first year of the same Reign, and intituled, "An Act for granting to His Majesty certain new Duties on the importation into this Province of all Manufactured Tobacco and Snuff, and for disallowing the draw-back on Tobacco and Snuff Manufactured within this Province," and another certain Act of the said Parliament, passed in the fifty-third year of the same Reign, intituled "An Act to grant certain Duties to His Majesty, towards supplying the wants of the Province during the present War with the United States of America, and for other purposes," and another certain Act of the said Parliament, passed in the fifty-fifth year of the same Reign, and intituled, "An Act to amend an Act passed in the fifty-third year of His Majesty's Reign, intituled, 'An Act to grant certain Duties to His Majesty, towards supplying the wants of the Province during the present War with the United States of America, and for other purposes,' and another certain Act of the said Parliament, passed in the fifty-fifth year of the same Reign, and intituled, "An Act to grant new Duties to His Majesty to supply the wants of the Province," and also so much of an Act of the Parliament of the Province of Upper Canada, passed in the eleventh year of the Reign of His late Majesty King George the Fourth, and intituled, "An Act for the relief of the sufferers who sustained loss during the late War with the United States of America," as imposes a duty on Salt imported from the United States of America, shall be

and the same are hereby repealed, except so far as the said Acts, or any of them, or any thing therein contained, repeal any former Act or Acts, or any part thereof, all and every such said Act or Acts, or the part thereof so repealed, shall remain and continue so repealed to all intents and purposes whatsoever, and except so far as relates to any arrears of Duties or Draw-backs which shall have become due and payable or Duties for which Bonds shall have been given or any Penalty or Forfeiture which shall have been incurred before the time at which this Act shall come into force and effect.

III. *And be it enacted*, That in lieu, and instead of all other duties of Customs, except the duties levied by virtue of any Act of the Parliament of Great Britain, or of the Parliament of Great Britain and Ireland, there shall be raised, levied, collected, and paid unto Her Majesty, Her Heirs and Successors, upon Goods, Wares, and Merchandise, and other articles imported into this Province, the several duties of Customs respectively inserted, described and set forth in words and figures in the table to this Act annexed, and intituled, "Tables of Duties of Customs inwards."

IV. *And be it enacted*, That there shall be raised, levied, collected and paid, to and for the use of Her Majesty, Her Heirs and Successors, upon all Goods, Wares, and Merchandises, of what kind or nature soever, which shall be imported or brought into this Province, (except as is hereinafter excepted, and also except those upon which certain duties are imposed by this Act, and specified in the table, intituled, "Table of Duties of Customs inward" annexed to this Act,) a duty of five pounds on every hundred pounds worth of the said Goods, Wares and Merchandise so imported as aforesaid, which said duty shall be calculated on the first or sterling cost of each one hundred pounds worth of such Goods, Wares and Merchandise so imported as aforesaid, and so in proportion for a greater or less quantity thereof.

V. *And be it enacted*, That all and every person or persons, who shall import or bring within this Province, any Goods, Wares or Merchandise, on which such duty of five pounds for every hundred pounds worth thereof is hereby imposed, shall by himself or his Assignee, Clerk or Agent, immediately produce to the Collector or principal Officer of the Customs of the Port or Place where such importation shall be made, the original Invoice of such Goods, Wares or Merchandise, and the Importer or Importers, Consignee or Consignees, Clerk or Agent, or Assignee of such Importer or Consignee thereof, shall make and subscribe the following declaration, which such Collector or Principal Officer is hereby empowered to take :

"I, A. B., of _____ in the county of _____ do declare that the
 "account quantity of all the articles mentioned in the account or accounts, invoice or
 "invoices now by me produced, are just and true, and that it contains (or they contain)
 "the exact entry now tendered, and which are made subject to a duty of five pounds
 "on each hundred pounds worth thereof, and so in proportion for any greater or less
 "quantity, by an Act passed by the Legislature of this Province, in the fifth year of
 "Her Majesty's Reign, and intituled, 'An Act to repeal certain Acts therein mention-
 "ed and to consolidate the laws relating to the Provincial Duties to be levied on Goods,
 "Wares and Merchandise imported into this Province,' and I do further declare that
 "the prices annexed to each article are just and true, and agreeable to the first or
 "sterling cost thereof, and that I am the Owner thereof, or the Consignee, who has the
 "principal care, disposal or management of the same, or the Principal Clerk or Agent
 "of such Owner or Consignee as the case may be," and all and any such Goods,
 "Wares or Merchandise which shall be imported or brought into this Province afore-
 "said and shall be found in the custody or possession of any person or persons whomso-
 "ever, without having been entered and accounted for as aforesaid, and the Duties
 "thereon paid, and secured in the manner hereinafter mentioned, shall be seized, for-
 "feited, condemned and distributed in the manner prescribed by this Act.

VI. *And be it enacted*, That in all cases where no invoice shall have been received at the time of the arrival of any Goods, Wares or Merchandise, whereon the said duty of five per cent is imposed by this Act, and the Importer or Importers thereof, or such person as by the next foregoing section is authorised to make and subscribe the declaration thereby required with regard to such Goods, Wares or Merchandise, shall make or subscribe a declaration before the Collector or Principal Officer (who is hereby empowered to take the same) that he cannot, for want of full information, make perfect entry thereof, it shall be lawful for the Collector or Principal Officer to cause

such Goods, Wares or Merchandise to be landed on a bill of sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the Collector or principal Officer, or such other Officer of the Customs as shall be appointed by the said Collector or principal Officer, to be delivered to such person on his depositing in the hands of the Collector such sum of money as shall in the judgment of the Collector or such principal Officer be fully sufficient to pay the duties thereof, and engaging to make perfect entry thereof, and to pay the deficiency of such duty, if any, at the time of making such perfect entry.

VII. *And be it enacted*, That when the Goods, Wares, or Merchandise entered by bill of sight, are of such a nature or description that they cannot be examined (either from their liability to injury or loss, or from the minuteness of their detail) so that their true price and value may be ascertained according to the true intent and meaning of this Act, such Goods, Wares or Merchandise shall be Warehoused under the Crown's Lock, at the expense and risk of the Importer, Proprietor, or Consignee, until the Invoice shall be produced; and if such Invoice be not produced within three months from the day on which such entry was made by bill of sight, then the said Goods, Wares, and Merchandise shall be sold (under a written order to that effect, made and signed by the Collector or Principal Officer) at such time and place as the said Collector or Principal Officer shall, by four or more days public notice, appoint for that purpose, for the payment of the Duties, charges of removal, Warehouse Rent, and all other necessary expenses incurred in respect to such Goods, Wares and Merchandise, and the overplus, if any, shall be paid to the Importer, Proprietor or Consignee of such Goods, Wares and Merchandise.

VIII. *And be it enacted*, That when the Invoice is produced, and the value declared as aforesaid, it shall upon view and examination of the said Goods, Wares and Merchandise, by the proper Officer or Officers of the Customs appear to him or them that the same are not valued according to the true price and value thereof, and to the true intent and meaning of this Act, then it shall and may be lawful for the proper Officer or Officers of the Customs to detain such Goods, Wares and Merchandise, and to cause the same to be properly secured, and to take such Goods, Wares and Merchandise, for the benefit of the Crown, within fifteen days after the landing thereof; and the Collector of the Customs at the Port at which the same have been entered shall out of any monies in his hands, arising by Customs or other duties belonging to the Crown, pay to the Importer or Proprietor, on demand, the value declared, together with the costs and charges of Importation, and an addition of ten pounds per centum thereon, and also the Customs and other Duties which shall have been paid for such Goods, Wares and Merchandise, taking a receipt for the same from such Proprietor or Importer, in full satisfaction for the said Goods, as if they had been sold: and it shall be lawful for the Collectors of the said Customs respectively, whether the value of the Goods with Costs and charges, and ten pounds per centum thereon, and the Duties which shall have been paid on such Goods be demanded or not, and whether the receipt herein ordered to be taken, be given or not, to cause the said Goods to be publicly sold to the best advantage, and out of the produce thereof, the money so as aforesaid directed to be paid for such goods, shall be paid to such Collectors respectively, to be replaced to the funds from which he borrowed the same: provided the same shall have been paid by him, but if not, then the same shall remain in the hands of the said Collector of Customs, until the Importer or Proprietor shall demand the same, and give a receipt as hereinbefore directed, and after deducting from the overplus, if any, the expenses incurred for the detaining, securing and the sale of such Goods, the said Collector shall pay to the Officer or Officers of the Customs concerned in the view of such Goods, as an encouragement for the discharge of their duty, one moiety of the remainder of such overplus, (if any,) and the other moiety shall be paid into the hands of the Receiver General of this Province, to be accounted for by him.

IX. *And be it enacted*, That if any Contractor or Contractors, Commissary or Commissaries, actually in Her Majesty's service or employment, shall Import or bring into the Province, for the use of Her Majesty's Army or Navy, or for the use of the Indian Nations in this Province, arms, clothing, or articles whatsoever, such Contractor or Contractors, Commissary or Commissaries, or their principal Agent, shall produce to the Collector an invoice thereof as aforesaid, and in addition to the declar-

ration herein before required to be made by an Importer, shall make and subscribe a declaration that all the articles contained in such invoices, were actually imported for the use of Her Majesty's Army or Navy, or for the use of the Indian Nations in this Province, to be issued to them for and on account of Her Majesty and for no other use or purpose whatsoever, and thereupon such goods shall be exempted from the payment of the said duty.

X. *And be it enacted*, That Barley, Beans, Beef, salted or fresh, Cattle, Fish, salted or fresh, Flour, Grain of all kinds, Hogs, Horses, Indian Corn, Live Stock, Oil, (fish) Peas, Pork, salted or fresh, Potatoes, Seeds, Wheat and Packages, in which dutiable articles are contained, shall be exempt from the payment of the said duty, provided that the Importer or Consignee thereof, shall make a special entry of all such articles, and shall state the amount of the invoice or invoices thereof, in the manner prescribed for other articles, in order that the real amount of Goods imported into this Province may be ascertained.

XI. *And be it enacted*, That if any person or persons, shall come into this Province, or any part thereof, for the purpose of actually settling therein, it shall and may be lawful for the said Collectors to exempt from the payment of the aforesaid duty of five per centum, all household goods, and necessaries of all kinds, which such person or persons shall import or bring with them for their own use and of their families, but it shall not be lawful to exempt any Goods, Wares or Merchandise of any kind whatsoever brought or imported by such person or persons for the purpose of trade or for sale.

XII. *And be it enacted*, That from the gross weight there shall be deducted by the Collector for the tare of packages containing Goods subject to any of the aforesaid duties by weight, as follows: that is to say: on Coffee in bags or bales, three pounds on every hundred pounds, on Coffee in casks, twelve pounds on every hundred pounds; on Muscovado or clayed sugar in casks or boxes, twelve pounds on every hundred pounds; loaf or lump sugar in casks or boxes, fifteen pounds on every hundred pounds; and leaf tobacco in casks, twelve pounds on every hundred pounds.

XIII. *And be it enacted*, That when the original invoice of any of the articles mentioned, in the twelfth clause of this Act, shall be produced, and a declaration of the correctness thereof, made by the Importer or Importers, Consignee or Consignees, his or their Agent, it shall in such case be lawful to deduct the tare according to such Invoice from the real gross weight of such goods respectively, instead of deducting the aforesaid allowances for tare of packages.

XIV. *And be it enacted*, That when any Ship or Vessel shall be entered at the Custom House of Quebec, or at Montreal, on board of which there shall be any Goods, Wares or Merchandise, on which any duty has been levied or collected by virtue of this Act, or on which any duty has been deposited, or the payment thereof secured in the manner provided by this Act, and that thereafter the said Goods, Wares or Merchandise, shall be lost or destroyed before the same shall be landed from such Ship or Vessel, or from any Vessel or Craft employed to lighten such Ship or Vessel, either at Quebec or at Montreal, then on proof being made upon the oath of one or more credible witness or witnesses, before the Collector of the Customs for the time being, (which oath the said Collector is hereby authorised and required to administer) that such Goods, Wares or Merchandise, or any part thereof, (specifying the same) have been so lost or destroyed, before the landing of the same, the duties, on the whole or the part thereof, so proved to be lost or destroyed, shall, if the same have been paid or deposited be returned to the owner or his Agent, and if security for the payment of the said duty have been given, such security or a proportionate part thereof, as the case may be, shall be cancelled and discharged accordingly.

XV. *And be it enacted*, That if any Goods, Wares or Merchandise on which duties are made payable by this Act, and shall be imported into this Province, shall receive any damage by Salt Water or otherwise during the course of the voyage, after such Goods, Wares or Merchandise shall have been laden or shipped in foreign parts, and before the same shall be unshipped or discharged from the Ship or Vessel in which they shall be imported into this Province, so that the owner or owners thereof shall be prejudiced in the sale of such Goods, Wares or Merchandise, the principal Officers of the Customs, at the place where the same shall be landed shall have power to choose three disinterested Merchants, experienced in the value of such Goods, Wares,

or Merchandise, who, or any two of them, upon viewing the same, shall certify and declare upon their corporal Oaths, first administered by the said Officer (who is hereby authorised and empowered to administer the same) what damage such Goods, Wares or Merchandise have received, or how much the same are lessened in their true value by such damage in relation to the duties imposed on them by this Act, and thereupon the Principal Officer of Her Majesty's Customs at the place, shall, and he is hereby authorised and required to make a proportionate allowance to the Importer, by way of return or repayment out of the duties due, or which shall have been actually paid upon the same.

XVI. *And be it enacted*, That before the unlading of any Goods, Wares or Merchandise, on which any rates or duties are imposed by this Act, the said rates or duties shall be paid or the payment thereof secured to the Collector of the Customs, at the Port at which the same shall be entered, in the manner following, that is to say: where the amount of the duties imposed by this Act on Goods, Wares and Merchandise imported in any Ship or Vessel, on account of or consigned to one person only, or several persons jointly interested, shall not exceed the sum of fifty pounds currency, the same shall be immediately paid in money; and where the said amount shall exceed the sum of fifty pounds currency, the same may, at the option of the owner or his Agent, be either immediately paid in money, or the payment thereof secured by a Bond to Her Majesty, Her Heirs and Successors, payable to such Collector of the Customs for the time being, with condition for the payment of so much as such duties shall be found to amount to, (when the sum shall be ascertained by the return and certificate of the proper Officer, who shall Gauge, Weigh, Measure or Tell such Goods, Wares and Merchandise) in six months from the date of such Bond, if the same shall be dated on or before the first day of September in any year, or if such Bond shall bear date after the first day of September, then with the condition of payment as aforesaid, on the first day of April then next ensuing; which Bond shall be executed by the owner or owners, his or their Agent, and one or more sureties to the satisfaction of the aforesaid Collector of the Customs; and the Officers who shall Gauge, Weigh, Measure or Tell any such Goods, Wares, or Merchandise, whereon the duties shall have been so paid in money or the payment thereof secured as aforesaid, shall, if required, give the owner or owners thereof, his or their Agent, without fee or reward, a duplicate of the return or certificate by him of such Gauge, Weight, Measurement or telling, and the duties shall be calculated agreeably to such return or certificate, the allowances for tare hereinbefore directed to be made, being first deducted; and the amount of the duties being so ascertained shall be endorsed by the Collector on the Bonds so given for the said duties, and thereupon the overplus of such Bond shall be cancelled and made void; and if the duties have been paid in money, such return and certificate shall entitle the owner or owners, his or their Agent, to demand the repayment to him or them of such sums of money as may have been paid over and above the true amount of duties ascertained upon the return or certificate last mentioned; but if the duties when so calculated shall be found to exceed the amount paid in money or the amount of the security given, such excess shall immediately be paid to the Collector: *Provided always*, that no person whose Bond for the payment of any rates or duties shall be due and unsatisfied after the time therein limited for payment, shall be allowed a future credit for duties until such Bond shall be fully paid and satisfied.

XVII. *And be it enacted*, That all sums of money granted or imposed by this Act, either as duties, penalties, or forfeitures, shall be deemed and are hereby declared to be sterling money of Great Britain, and that all duties shall be paid and received under this Act, according to British weights and measures in use on the sixth day of July, one thousand eight hundred and twenty-five, and that in all cases when such duties are imposed according to any specific quantity or any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value.

XVIII. *And be it enacted*, That all sums of money which shall arise from such duties, shall be paid to the Receiver General of this Province, by the Collector of Her Majesty's Customs, and shall form part of the consolidated revenue fund of this Province, and the duties aforesaid, together with all fines, penalties and confiscations that shall be incurred under this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her Heirs and Successors shall direct.

XIX. *And be it enacted*, That an account of all the monies which shall arise from the payment of the rates and duties hereby imposed, shall be made up quarterly by the Collector or Collectors of the Customs, signed by them, and declared to by the Collectors of the Customs at the Ports of Quebec and Montreal respectively, before any one of the Justices of the Court of King's Bench or Common Pleas, and by the Collectors at any other place, before any one of Her Majesty's Justices assigned to keep the Peace, and transmitted to the Governor, Lieutenant Governor, or Person administering the Government; and all such monies shall be paid at the end of every quarter, into the hands of the Receiver General, and there shall also be made up quarterly, an account of the expences incurred by the said Collectors for the purpose of securing the payment of the aforesaid rates and duties, and the same shall be declared to by the said Collectors in the manner hereinbefore prescribed, and shall also be transmitted to the Governor, Lieutenant Governor, or Person administering the Government, and being by him approved in Her Majesty's Executive Council, a warrant shall issue, directed to the Receiver General, for the payment thereof to the said Collectors.

XX. *And be it enacted*, That each and every Act of the Legislature of that part of the Province, which heretofore constituted the Province of Lower Canada; and also each and every Act of the Legislature of that part of the Province, which heretofore constituted the Province of Upper Canada, relating to the officers of the Customs, or the mode of Collecting such Customs, or the places where they may be paid, or in any way affecting the same and not hereby repealed, or contrary to the provisions of this Act, and the true intent and meaning thereof, shall be, and they are by this Act extended to the duties hereby imposed, and to the officers employed in collecting the same.

XXI. *And be it enacted*, That every importer of Goods by sea shall, within fourteen days after the arrival of the Importing Ship, make due entry inwards of such Goods, and land the same, and in default of such entry and landing, it shall be lawful for the Officers of the Customs to convey such Goods, and at any time to convey all small packages or parcels of Goods to the Queen's Warehouse; and if the duties due upon such Goods be not paid within six months after the expiration of the said fourteen days, together with all charges of removal and Warehouse rent, the same shall be sold under written order to that effect, signed by the Collector of the Customs, at such time and place as the said Collector shall by four or more days public notice appoint for that purpose: and the monies arising from such sale shall be applied first to the payment of freight and charges, and next of duties; and the overplus, if any, shall be paid to the owner of the Goods.

XXII. *And be it enacted*, That if any declaration required by this Act, shall be wilfully made untrue in any particular, the person making the same shall, over and above every other penalty to which such person may become subject, incur a penalty of twenty-five pounds, currency.

XXIII. *And be it enacted*, That all penalties imposed by this Act, and all forfeitures incurred under the provisions thereof, shall and may be sued for, prosecuted, and recovered by action of debt, bill, plaint or information in any of Her Majesty's Courts of Record, at Quebec, Montreal, Three Rivers, Sherbrooke, or in the District of Gaspé, or in Her Majesty's Court of Queen's Bench of Upper Canada, in the name of Her Majesty's Attorney General or Solicitor General, or in the name or names of some Officer or Officers of Her Majesty's Customs; and one moiety of such penalty or forfeiture shall be paid to the said Officer or Officers of Her Majesty's Customs prosecuting for the same, and the other moiety shall be paid into the hands of Her Majesty's Receiver General, for the public uses of this Province.

XXIV. *And be it enacted*, That any person or persons who shall be convicted of wilfully taking a false Oath, or making a false Declaration in any of the cases in which an Oath or Declaration is required to be taken, by virtue of this Act, shall be liable to the pains and penalties to which by Law persons are liable for wilful and corrupt perjury.

XXV. *And be it enacted*, That all Actions or Suits for the recovery of any of the penalties or forfeitures imposed by this Act, or incurred under the provisions thereof, may be commenced or prosecuted at any time within three years after the commission of the offence, by reason whereof such penalty or forfeiture shall be incurred, any Law, usage, or custom to the contrary notwithstanding.

XXVI. *And be it enacted*, That if any Goods shall be seized for non-payment of duties, or any other cause of forfeiture under this Act, and any dispute shall arise, whether the duties have been paid for the same, or the same have been lawfully imported, the proof thereof shall lie on the Owner or Claimer of such Goods, and not on the Officer or other person who shall seize and stop the same.

SCHEDULE.

TABLE OF DUTIES OF CUSTOMS INWARDS.

	s.	d.
Madeira Wine, for every gallon Wine measure, one shilling	1	0
All other Wines, six-pence	0	6
<i>Spirits or Strong Waters of all sorts.</i>		
For every gallon of such Spirits or Strong Waters, of any strength not exceeding the strength of proof by Sykes' hydrometer, and so in proportion for any greater strength than the strength of proof, and for any greater or less quantity than a gallon, viz :		
Not being Spirits or Strong Waters the produce of the United Kingdom, or of any British possession in America, or of any British possession within the limits of the East India Company's Charter, and not being sweetened Spirits, or Spirits mixed with any article, so that the degree of strength thereof cannot be exactly ascertained by such hydrometer, six-pence		
	0	6
Spirits or Strong Waters the produce of any British possession in America, not being sweetened Spirits, or Spirits so mixed as aforesaid, six-pence ...	0	6
Spirits or Strong Waters, the produce of any British possession within the limits of the East India Company's Charter, not being sweetened Spirits, or Spirits so mixed as aforesaid, one shilling	1	0
Spirits or Strong Waters, the produce of the United Kingdom, not being sweetened Spirits, or Spirits so mixed as aforesaid, three-pence	0	3
Spirits, Cordials, or Strong Waters respectively, not being the produce of the United Kingdom, or of any British possession in America, sweetened or mixed with any article, so that the degree of strength cannot be exactly ascertained by such hydrometer, one shilling and seven-pence	1	7
Spirits, Cordials, and Strong Waters respectively, being the produce of the United Kingdom, sweetened and mixed as aforesaid, one shilling and one penny half-penny	1	1½
Spirits, Cordials, and Strong Waters respectively, being the produce of any British possession in America, or within the limits of the East India Company's Charter, sweetened or mixed, as aforesaid, nine-pence	0	9
And further for the excess over hydrometer proof upon all Spirits not sweetened as aforesaid, for every gallon Wine measure of such excess, were the Spirits reduced to such hydrometer proof,—an equal additional duty per gallon to the duty imposed upon the said Spirits by any Act or Acts of the Imperial Parliament, and payable in the Province.		
For every pound of refined Sugar, two-pence	0	2
For every pound of raw Sugar, one penny	0	1
For every pound of Green Coffee, two-pence	0	2
For every pound of Ground Coffee, four-pence	0	4
For every pound of Tea, three-pence	0	3
For every hundred weight of Molasses or Syrups, one shilling and six-pence	1	6
For every barrel of Salt containing two hundred and eighty pounds, and so in proportion for any greater or less quantity, imported otherwise than from sea, two shillings and six-pence	2	6
For every ton of Salt, imported by sea, one shilling	1	0
For every pound of Tobacco, unmanufactured, one penny	0	1
For every pound of Tobacco, manufactured, two-pence	0	2

COMMON SCHOOL ACT.

A N A C T,

To repeal certain Acts therein-mentioned, and to make further provision for the establishment and maintenance of Common Schools throughout this Province.

[Passed 18th September, 1841.]

WHEREAS the Laws now in force for the maintenance and regulation of Common Schools, are insufficient, and it is necessary to make provision for the establishment and maintenance of such Schools throughout the Province:—Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, that the Act of the Legislature of the late Province of Upper Canada, passed in the fifty-sixth year of the Reign of His late Majesty King George the Third, and intituled "An Act granting to His Majesty, a sum of money to be applied to the use of Common Schools throughout this Province, and to provide for the regulation of the said Common Schools;" and the Act of the said Legislature, passed in the sixtieth year of the Reign of His said late Majesty, and intituled, "An Act to amend and continue, under certain modifications an Act passed in the fifty-sixth year of His Majesty's Reign, intituled, "An Act granting to His Majesty a sum of money to be applied to the use of Common Schools throughout this Province, and to provide for the regulation of the said Common Schools;" and the Act of the said Legislature passed in the fourth year of the Reign of His late Majesty King George the Fourth, intituled, "An Act to make permanent and extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout this Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same;" and a certain Act of the Legislature of the late Province of Lower Canada, passed in the second year of the Reign of His late Majesty King William the Fourth, and intituled, "An Act to repeal certain Acts therein mentioned, and for the further encouragement of Elementary Schools in the Country parts of this Province;" and all other Acts and parts of Acts of the said Legislatures repugnant to, or inconsistent with the provisions of this Act, be and the same are hereby repealed.

II. *And be it enacted*, That for the establishment, support and maintenance of common Schools in each and every Township and Parish in this Province, there shall be established a permanent fund which shall consist of all such monies as may accrue from the selling or leasing of any lands which, by the Legislature of this Province, or other competent authority, may hereafter be granted and set apart for the establishment, maintenance and support of Common Schools in this Province, and of such other monies as are hereinafter mentioned: and all such monies as shall arise from the sale of any such lands or estates, and certain other monies hereinafter mentioned, shall be invested in safe and profitable securities in this Province, and the interest of all monies so invested, and the rents, issues, and profits arising from such lands or estates as shall be leased or otherwise disposed of without alienation, shall be annually applied in the manner hereinafter provided, to the support and encouragement of common Schools.

III. *And be it enacted*, That for the establishment, support, and maintenance of Common Schools in this Province, there shall be granted to Her Majesty, annually, during the continuance of this Act, the sum of Fifty Thousand Pounds Currency, to be distributed among the several Districts in the manner hereinafter provided, and such sum shall be composed and made up of the annual income and revenue derived as

aforesaid, from the said permanent fund, and of such further sum as may be required to complete the same, out of any unappropriated monies which are now raised and levied, or which may hereafter be raised and levied by the authority of the Legislature, to and for the public uses of this Province;—and the said annual grant shall be, and be called “The Common School Fund.”

IV. *And be it enacted*, That it shall be lawful for the Governor of this Province, by Letters Patent under the Great Seal thereof, to appoint from time to time, one fit and proper person to be Superintendent of Education in this Province; and such Superintendent shall hold his office during pleasure, and shall receive such yearly salary not exceeding the sum of seven hundred and fifty pounds currency as the Governor may appoint: and the duties of the said Superintendent shall be:

Firstly: To apportion in each and every year, on or before the third Monday in May in such year, the money annually granted by the Legislature as aforesaid, among the several Municipal Districts, in the ratio of the number of children over five and under sixteen years of age, that shall appear by the then last census of the Province, to be resident within such District respectively;

Secondly: To furnish the Receiver General of the Province, for his rule and guidance, with a certified statement or list of the apportionment of the money, granted by the Legislature, under the provisions of this Act as aforesaid, among the several Districts;

Thirdly: To certify the apportionment of the public money as aforesaid, to the Treasurer of each and every of the said Districts respectively, who shall lay the same before the District Council, to the end that such District Council may direct, and they are hereby authorised and required to direct, such a sum to be raised and levied for the purposes of this Act, and within their respective Districts over and above all rates laid for other purposes, as shall be equal in amount to the money so apportioned from the Provincial Treasury;

Fourthly: To visit annually each of the Municipal Districts in the Province, and ascertain the state of Common Schools therein, and for so doing he shall be allowed his reasonable expenses;

Fifthly: To prepare suitable forms for making reports and conducting the necessary proceedings under this Act, and to cause the same to be communicated to all such persons as shall be employed in carrying the provisions of this Act into effect; and to address to the said persons such suggestions as may tend to the establishment of uniformity in the conduct of Common Schools throughout this Province: And the said Superintendent shall submit annually to the Governor of the Province, on or before the thirty-first day of December in each year, a Report on the actual state and condition of Common Schools throughout the Province, showing the monies expended on such Schools, and from what source derived, with plans for their improvement, and stating such other matters respecting Education generally as the Superintendent may deem useful and expedient, in order that the same may be laid before the Legislature at the meeting thereof then next following.

V. *And be it enacted*, That the District Council of each District, shall be a Board of Education of such District, and their duties as such Board shall be:

Firstly: To divide the several Townships and Parishes within their District into School Districts, to be designated by numbers, as one, two, three, and so on: (*Provided always*, that no such School District shall be established in which there shall be fewer than fifteen children between the age of five and sixteen resident therein,) and forthwith to furnish a full report of such division of the District, with a proper description and designation of boundaries to the Superintendent of Education; and also to furnish a specification of the School Districts, in each Parish or Township to the School Commissioners to be appointed for the same in the manner hereinafter provided.

Secondly: To apportion and distribute to each of the said School Districts its share of the School fund, which share shall be proportioned to the number of children between the ages of five and sixteen, resident in such School Districts respectively.

Thirdly: To apportion and cause to be assessed on the inhabitants of such School District a sum not exceeding fifty pounds for the erection of a School-house in each School District in which none exists;

Fourthly: To apportion to each Township and Parish, a sum not exceeding ten pounds, in any one year, to be expended in the purchase of such Books as may be recommended by the Common School Commissioners for distribution among the Schools.

Fifthly: To report their proceedings in matters relating to Common Schools and the state of such Schools within the District, to the Superintendent, annually on or before the first Monday in December in each year.

VI. *And be it enacted*, That if the District Council of any District shall at any time refuse or neglect to comply with the foregoing requirements of this Act, such District shall not be entitled to receive any sum of money out of the Common School fund until such requirements shall have been duly complied with, or a good and sufficient cause for non-compliance shall have been shown to the satisfaction of the Superintendent of Education.

VII. *And be it enacted*, That at the annual Township or Parish meetings to be held in the month of January, one thousand eight hundred and forty-two, and at each succeeding annual meeting, for the Election of Township and Parish Officers, there shall be elected in the manner prescribed by Law for the Election of such Officers, five Commissioners for each and every Township and Parish entitled to elect one District Councillor, and seven Commissioners for each and every Township entitled to elect two District Councillors; and the said Commissioners shall be called "Common School Commissioners," and their duties shall be:

Firstly: To choose, and whenever funds shall be provided for that purpose by the District Council, to acquire a site for a Common School House in each School District in their Township or Parish in which no such School House shall exist at the time this Act shall come into force, and to make an estimate of the cost of such site and of the expense of building a School House and of keeping the same in repair, and an estimate of the cost of furnishing each Common School in the Township or Parish with the necessary fuel and appendages; and to transmit such estimates to the Clerk of the District Council in order that the inhabitants of the respective School Districts may be assessed accordingly.

Secondly: To appoint for each of the School Districts within the Township or Parish one or more of their number to superintend the building and repairing of the Common School House in such School District, and the furnishing it with fuel, and other necessary things, and generally to manage the concerns of the School and report to the School Commissioners, once in three months, that is to say: on or before the first Monday in each of the months of March, June, September, and December, the state of such School, the amount of monies received for it, the manner in which such sum has been expended, the number of children above five and under sixteen years of age taught in it, and the number of days that each child has attended.

Thirdly: To agree with and appoint, from time to time, Teachers in the said Common Schools, and to remove such Teachers when they shall find just cause for so doing: *Provided always*, that no person except he be one of the persons known as *les freres de la Doctrine Chretienne* shall be appointed a Teacher in any of the said Schools unless he be a subject of Her Majesty by birth or naturalization, of good moral character, and shall have been examined before the said Commissioners as to learning and ability.

Fourthly: To regulate for each School respectively the course of study to be followed in such School, and the books to be used therein, and to establish general rules for the conduct of the Schools, and communicate them in writing to the respective Teachers.

Fifthly: To hear and determine all disputes which may arise out of the proceedings of the managing or visiting Commissioners hereinafter mentioned, or other matters of dispute in respect to Common Schools within their Township or Parish.

Sixthly: To appoint two or more of their number to visit each Common School in the Township or Parish, once at least in each month, and to report the state of such School, whether the rules and regulations established by the Commissioners are duly observed, the number and proficiency of the Scholars, the character and ability of the Teachers, the conduct of the managing Commissioner, and all other matters connected with the management and well-being of such School.

Seventhly: To grant warrants from time to time upon the District Treasurer, for such sums of money as may be required for paying the Teachers, and defraying the expenses of the several Common Schools within the Township or Parish: *Provided always*, that such warrants shall be signed by a majority of the Commissioners, of which the Chairman shall be one; and that the sums of money to be paid under the same shall in no case exceed the amount then appropriated by Law, and collectively for the said Schools respectively.

Eightly: To exonerate such poor persons as they may deem fit, not exceeding ten in each School District, from the payment of the wages of Teachers, in this Act established and required to be paid for each and every child attending any Common School.

Ninthly: To record and preserve all their proceedings in a book to be provided for that purpose, the proceedings of each meeting with the names of the Commissioners present, being authenticated by the signature of the Chairman; and such book shall be delivered over by the Commissioners to their successors in office, and it shall be the duty of the Town Clerks to attend all such meetings, for the purpose of making such record.

Tenthly: To report all their proceedings, and all matters connected with the several Common Schools in the Township or Parish, to the District Council annually, on or before the third Monday of November, such report being in the form to be furnished by the Superintendent of Education.

Eleventhly: It shall be the duty of the said Common School Commissioners, within ten days after the expiration of their respective periods of service, to deliver to their successors in office any and all books, accounts, vouchers, papers, reports, and other documents, in their possession, as such Commissioners, and they may in case of default, be thereunto constrained by all lawful ways and means.

VIII. *And be it enacted*, That the said Commissioners shall remain in office until the annual Parish or Township meeting next following the time of their election, and until others shall be elected in their places; and in case the office of one or more Commissioners shall be vacated by death, refusal to serve, removal out of the Township or Parish, or incapacity, the vacancy shall be supplied by an appointment to be made by the remaining Commissioners, at their first meeting after such vacancy shall occur.

IX. *And be it enacted*, That the Common School Houses in each Township or Parish now acquired, or hereafter to be acquired, under the provisions of this Act, with the ground whereon they are situate, and all the appendages and furniture thereof, and books and other things thereunto appertaining, shall henceforward vest in, and be held and possessed by the Commissioners of such Township or Parish, and their successors in office, for ever, as Trustees for the purposes of this Act: *Provided always*, that no such School-House or other thing thereunto appertaining, shall be sold or disposed of, or the site of any School changed, otherwise than by the consent of a majority of such Commissioners, of which majority the Chairman shall be one.

X. *And be it enacted*, That it shall be the duty of the Township or Parish Collector, to collect within the several School districts respectfully, all such rates as shall be assessed for the support of the several Common Schools within his Township or Parish, and also the sum of one shilling and Three Pence as additional wages for the Teacher, for each and every child attending any School, save and except for those children whose parents shall, by reason of their indigence have been exempted from the payment of such sum; and such rates, and the said sum of One Shilling and Three Pence for each child, may, if not paid, be recovered by the Collector, or his successors in office, in any Court of competent civil jurisdiction; and the Collector shall pay over all such sums, (after deducting therefrom such fees as he may be by Law allowed) into the hands of the District Treasurer, and shall at the same time deliver to the said District Treasurer a copy of the Assessment Roll, or other statement, shewing the amount collected for such School Districts respectively, within his Township or Parish, and the said District Treasurer shall keep separate accounts of all monies so paid in, and of all other monies appropriated to the several School Districts respectively.

XI. *Provided always, and be it enacted*, That whenever any number of the Inhabitants of any Township or Parish, professing a Religious Faith different from that of the majority of the Inhabitants of such Township or Parish, shall dissent from the regulations, arrangements or proceedings of the Common School Commissioners, with reference to any Common School in such Township or Parish, it shall be lawful for the Inhabitants so dissenting collectively to signify such dissent in writing to the Clerk of the District Council, with the name or names of one or more persons elected by them as their Trustee or Trustees, for the purposes of this Act; and the said District Clerk shall forthwith furnish a certified copy thereof to the District Treasurer; and it shall be lawful for such dissenting inhabitants, by and through such Trustee or Trustees, who for that purpose shall hold and exercise all the rights, powers and

authorities, and be subject to the obligations and liabilities hereinbefore assigned to, and imposed upon the Common School Commissioners, to establish and maintain one or more Common Schools in the manner and subject to the visitation, conditions, rules and obligations in this Act provided, with reference to other Common Schools, and to receive from the District Treasurer their due proportion, according to their number, of the monies appropriated by Law, and raised by assessment for the support of Common Schools, in the School District, or Districts in which the said Inhabitants reside, in the same manner as if the Common Schools so to be established and maintained under such Trustee or Trustees, were established and maintained under the said Common School Commissioners, such monies to be paid by the District Treasurer upon the Warrant of the said Trustee or Trustees.

XII. *And be it enacted*, That no Common School shall be entitled to any apportionment of money out of the Common School fund, except on the terms and conditions following, that is to say: Such School shall have been open for at least nine months during the year then last past, and shall have been during the said term, and shall continue to be at the time such apportionment is made, regularly attended by at least fifteen children between the ages of five and sixteen; the Reports hereinbefore required shall have been regularly made with regard to such Common School;—and the sum paid by the Inhabitants, by assessment or otherwise towards the support of such Common School, for the period for which the apportionment shall be made, shall have been at least equal to the sum apportioned: *Provided always*, that it shall be lawful for the School Commissioners in each Township or Parish, with the approval of the District Council, to exempt in whole or in part any number of School Districts, not exceeding two, from the payment of such sum towards the support of their Common Schools, on account of the poverty of their Inhabitants; and the School Districts so exempted, shall nevertheless receive their apportionment from the School fund: *And provided also*, that nothing in this section contained shall prevent, or be construed to prevent the apportionment and payment of monies under this Act, towards the establishment and maintenance of any Common School for the first year after the passing of this Act.

XIII. *And be it enacted*, That if any monies having formed part of the annual Grant made under this Act out of the public funds of the Province, shall by reason of any non-compliance with the requirements of this Act, or from any other cause remain unpaid to any of the purposes for which they are granted, after the expiration of the time during which they ought to be so applied, such monies shall on demand be returned and delivered by the person or persons in whose possession they may respectively be, to the Receiver General of this Province, and together with all monies forming part of the annual grant aforesaid, which shall remain in his hands unapplied to the purposes of this Act, after the expiration of the time during which they ought to be so applied, shall be invested by him in the manner hereinbefore prescribed with respect to the monies forming the permanent fund for the maintenance and support of Common Schools, and shall form part of the said fund.

XIV. *And be it enacted*, That if any Common School Commissioner, or other person, shall wilfully make a false Certificate or Report, by means whereof any monies shall be fraudulently obtained from and out of the said Common School Fund, such Commissioner or other person shall not only restore the money so fraudulently obtained, but shall be liable to a penalty not exceeding ten pounds currency, for the benefit of the said Fund, to be recovered at the suit of the District Clerk, or of the City Clerk as the case may be, on the oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace, and if not paid, to be levied with costs by distress and sale of the Defendant's goods and chattles, under the warrant of such two Justices or of either of them.

XV. *And be it enacted*, That in each of the Cities and Towns corporate in this Province, all and every the powers, rights and duties conferred and imposed by this Act upon District Councils, with respect to Common Schools in their Districts, are hereby vested in and shall be henceforward exercised and performed by the Corporation of each of the said Cities or Towns respectively, subject to all the conditions and regulations hereinbefore established with respect to the said District Councils.

XVI. *And be it enacted*, That it shall be lawful for the Governor of this Province, to appoint from time to time, in each of the Cities and Towns Corporate therein, not less than six nor more than fourteen persons, (one half of whom shall in all cases

be Roman Catholics, and the other half Protestants,) to be a Board of Examiners for each City or Town Corporate; of which said Board the Mayor shall be Chairman, but shall have no vote other than a casting vote; and the said Board shall be divided into two Departments, one of which shall consist of Roman Catholics, and shall exercise the duties hereinafter assigned to the Board of Examiners in and over the Common Schools attended by Roman Catholic children only, and shall in such cases appoint their Chairman, and the other Department shall consist of Protestants, and shall exercise their said duties in and over the Common Schools, attended by the Protestant children only, and shall in such case appoint their Chairman,—and in all cases in which the said Common Schools are attended by Roman Catholic Children and Protestant Children together, the said duties shall be exercised in and over the same by the whole Board of Examiners; and the duties of the said Board, and of the said Departments hereof, in the several cases above mentioned, in and for the said Cities and Towns Corporate respectively, shall be to examine the persons recommended as Teachers by the Corporation, and reject them if unqualified on the ground of character or ability, and to regulate for each School separately the course or study to be followed in such School, and the Books to be used therein, and to establish general rules for the conduct of the Schools, and communicate them in writing to the respective Teachers; in addition to which duties, the Board of Examiners in any City or Town Corporate shall be Visitors of the Common Schools in such City or Town Corporate, and as such Visitors, it shall be the duty of the Board to appoint two or more of their number to visit each of the Common Schools in such City or Town Corporate, at least once in every three months, and to report to the Corporations upon all matters connected with each of the said Common Schools, in detail, as fully as Common School Commissioners, and the Visitors by them appointed, are bound to report to the District Councils under the provisions hereinbefore contained.

XVII. *And be it enacted*, That all and every the rights, powers, and duties by this Act conferred and imposed upon the Common School Commissioners, with respect to the Common Schools under their authority and control, and hereinbefore enumerated in the seventh section of this Act, under the first, third, and eighth divisions of the said section, shall in each of the said Cities and Towns Corporate, and with respect to the Common Schools therein to be established, vest in and be exercised and performed by the Corporations thereof respectively; who in addition thereto are hereby empowered to appoint such and so many persons as they may deem fit severally to do and perform for and with respect to the Common Schools in the said Cities and Towns Corporate respectively, all and every the duties, matters, and things hereinbefore by the seventh section of this Act required to be performed by one of the Common School Commissioners, with reference to the Common Schools under their authority and control, and specified in the first and second divisions of the second section: and to provide by By-Laws such rules and regulations for the conduct and guidance of such person as they may respectively deem expedient.

XVIII. *And be it enacted*, That the said Cities and Towns Corporate respectively, shall be entitled to an apportionment of monies from the Common School Fund upon the same terms and conditions as are hereinbefore prescribed with respect to District Councils, and upon no other; and any monies so apportioned shall be paid to the City Treasurer, or other Officer performing the duties of Treasurer in the said Cities and Towns Corporate respectively, and be paid over by him upon such authority and subject to such regulations as are provided in the said several Cities and Towns Corporate, respectively, for the payment of monies belonging to the Corporation in other cases, or as may be hereafter provided in that behalf.

XIX. *And be it enacted*, That the said Corporation shall, on the first Monday of December, in each and every year, report to the Superintendent of Education all matters and things relating to Common Schools within the said Cities and Towns Corporate, respectively, connected with the well being of such Schools, in the same manner and as fully in all respects as the District Boards of Education and Common School Commissioners are by this Act bound to report, with respect to Common Schools within their respective Districts, Townships and Parishes.

XX. *And be it enacted*, That any person chosen or appointed to any office under this Act, who shall without sufficient cause refuse to serve therein, shall forfeit the sum of Twenty-five Shillings, Currency; and every person so chosen or appointed,

and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of Twenty-five Shillings, and all such forfeitures shall be paid to the Treasurer of the District, City, or Town, as the case may be, in which they are so forfeited, for the benefit of the Common School Fund, and may be recovered in the same manner as is provided with regard to fines incurred by making fraudulent reports and certificates as aforesaid.

XXI. *And be it enacted*, That the several sums hereby granted or apportioned under the provisions of this Act, to the several Districts of this Province, shall be paid by the Receiver General for the time being to the Treasurer of each District respectively, in discharge of such warrant or warrants as shall from time to time be issued by the Governor of this Province, and shall be accounted for to Her Majesty, her Heirs, and Successors, through the Lord's Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, her Heirs and Successors shall be pleased to direct.

XXII. *And be it enacted*, That whenever no special provision is made by this Act, as to the particular members, or as to the number of members by whom any act required to be done by any Board of Education, or by any Commissioners, or Board of Examiners, must be concurred in, it shall be understood that such act may be validly performed by any majority of the members of the Board.

XXIII. *And be it enacted*, That a solemn affirmation may be made instead of an oath, in every case where an oath is required in this Act, if the person making the same be one of those persons authorized by Law to make an affirmation instead of an oath; and that any false statement wilfully made on oath, or affirmation, in any case where an oath or affirmation is required by this Act, shall be wilful and corrupt perjury.

XXIV. *And be it enacted*, That the word "Governor," whenever it occurs in this Act, shall be held to mean and include the Governor, Lieutenant Governor, and person administering the Government of this Province, and the words "Parishes" and "Townships," wheresoever they occur in this Act, shall for all the purposes thereof be held to mean and include reputed Parishes and Townships, and unions of Parishes and Townships, and of reputed Parishes and Townships, in and for which meetings of the inhabitant householders now are, or hereafter may be by law appointed to be held; and the words "Town Clerk," shall be held to mean and include as well the Clerks of Parishes as the Clerks of Townships; and the word "Corporation" shall be held to mean the Common Council, or other body or municipal authority, by and through whom the powers of the Corporation are exercised.

XXV. *And be it enacted*, That this Act shall come into operation and have force and effect from and after the first day of January, in the year of our Lord one thousand eight hundred and forty-two, and not before.

SCHOOL LANDS ACT.

AN ACT,

To make temporary provision for the appropriation of the Funds derived from the Sale of School Lands in that part of the Province formerly Upper Canada, and for other purposes.

[Passed 18th September, 1841.]

WHEREAS it is very desirable to afford every encouragement to the advancement of Education throughout the Province : *And whereas*, His late most gracious Majesty King George the Third was pleased to direct that a quantity of the waste lands of the Crown should be set apart for the support of Grammar Schools within that part of the Province heretofore called Upper Canada : *And whereas*, the advancement of Education will be promoted by devoting a portion of the annual revenues of such waste lands to the support of such Grammar Schools : *And whereas*, it is expedient to repeal an Act of the Parliament of the late Province of Upper Canada hereinafter mentioned : *Be it therefore enacted*, by the Queen's most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That the several District Schools within that portion of the Province heretofore called Upper Canada, shall be and are hereby declared to be Grammar Schools, as contemplated by His late most gracious Majesty King George the Third, at the time the said reservation of land was directed to be made as aforesaid.

II. *And be it enacted*, That the money arising from the sales of the School Lands, now remaining in the Receiver General's hands unexpended, or which may come into his hands, applicable to the purposes of this Act, shall be invested in the Debentures of that part of this Province, heretofore Upper Canada, at six per cent interest, and the annual interests or rents thereof placed under the control of the Governor, or person administering the Government of the Province for the time being, to be distributed by and with the advice and consent of the Executive Council of the said Province, among such Districts within that part of the Province formerly called Upper Canada, as may more immediately require assistance, owing to the state of the school-house or other circumstances.

III. *And be it enacted*, That within three months after the passing of this Act, the Council of King's College, or their Bursar or Treasurer, shall transfer and pay over to the Receiver General as aforesaid, all Debentures unredeemed, and sums of money arising from unexpended arrears of interests, which may have accrued thereon, and be at present held under the authority of the Act hereby repealed, by the said Council or Treasurer, on account of the proceeds of the sale of School Lands as aforesaid, to be by the said Receiver General invested in Debentures, and the interests and rents thereof appropriated and distributed as hereinbefore mentioned.

IV. *And be it enacted*, that a sum not exceeding one hundred pounds per annum may be advanced to each of the several Boards of Trustees for the said Grammar Schools, from time to time, out of any monies in the hands of the Receiver General, arising from the sale of the said School Lands, and applicable to the purposes of this Act, to be expended in providing an additional Master, and other additional means of instruction for the Grammar Schools in the Districts respectively within that part of the Province formerly called Upper Canada.

V. *And be it enacted*, That it shall and may be lawful for the Board of Trustees in any District now constituted or hereafter to be constituted in that part of the Province formerly called Upper Canada, out of any monies in the hands of the Receiver General applicable to the purposes of this Act as aforesaid, to receive a sum not exceeding

two hundred pounds, to aid in the construction and erection of a suitable building for a School House in each District, provided an equal sum shall be raised by subscription among the Inhabitants for the like object, and provided they shall guarantee the permanent insurance of the building.

VI. *And be it enacted*, That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government for the time being, by and with the advice and consent of the Executive Council as aforesaid, to authorise a sum not exceeding one hundred pounds per annum out of the monies arising from the sale of the said Lands for each School, to be paid to any Board of Trustees, for the use and support of two other Schools than the one in the Town where the Court House is situated, in any Town, Township or Village within any of the Districts aforesaid, in which the inhabitants shall provide a suitable School House; at which not less than fifty Scholars shall be educated: Provided any such additional School shall not be within six miles of the District Town: And provided always, that nothing herein contained shall prevent the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being, by and with the advice and consent of the Executive Council thereof from extending the aid to four Grammar Schools (including the said two) other than the one established in the District Town, should it be deemed expedient.

VII. *And be it enacted*, That an account in detail of the sums received and expended under the provisions of this Act, shall be rendered to the Governor, Lieutenant Governor, or person administering the Government of this Province, annually, in order that the same may be laid before the Legislature, within thirty days after the commencement of each Session.

VIII. *And be it enacted*, That the Act of the Legislature of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, intituled, "An Act to provide for the advancement of Education in this Province," shall be and the same is hereby repealed: *Provided always*, that such repeal shall not annul or be construed to annul any order, engagement or act, for the distribution of the interest upon the Debentures, by the Council of King's College, made and carried into effect previous to the passing of this Act: *and provided also*, that the management and sale of the said School Lands, shall continue to be conducted by the said Council of King's College, until further provision shall be made in that behalf at any future Session of the Legislature.

